

**THE
HUNTINGDON
MUNICIPAL
CODE**

Prepared by the

**MUNICIPAL TECHNICAL ADVISORY SERVICE
INSTITUTE FOR PUBLIC SERVICE
THE UNIVERSITY OF TENNESSEE**

in cooperation with the

TENNESSEE MUNICIPAL LEAGUE

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Change 6, April 26, 2011

TOWN OF HUNTINGDON, TENNESSEE

MAYOR

Dale R. Kelley

VICE MAYOR

John Sanders

COUNCILMEMBERS

Jeff Bailey
Gary Hatch
Clarence Norman
Melissa Powell
Nina Smothers
Tim Tucker

RECORDER

Martha Taylor

PREFACE

The Huntingdon Municipal Code contains the codification and revision of the ordinances of the Town of Huntingdon, Tennessee. By referring to the historical citation appearing at the end of each section, the user can determine the origin of each particular section. The absence of a historical citation means that the section was added by the codifier. The word "modified" in the historical citation indicates significant modification of the original ordinance.

The code is arranged into titles, chapters, and sections. Related matter is kept together, so far as possible, within the same title. Each section number is complete within itself, containing the title number, the chapter number, and the section of the chapter of which it is a part. Specifically, the first digit, followed by a hyphen, identifies the title number. The second digit identifies the chapter number, and the last two digits identify the section number. For example, title 2, chapter 1, section 6, is designated as section 2-106.

By utilizing the table of contents and the analysis preceding each title and chapter of the code, together with the cross references and explanations included as footnotes, the user should locate all the provisions in the code relating to any question that might arise. However, the user should note that most of the administrative ordinances (e.g. Annual Budget, Zoning Map Amendments, Tax Assessments, etc...) do not appear in the code. Likewise, ordinances that have been passed since the last update of the code do not appear here. Therefore, the user should refer to the town's ordinance book or the town recorder for a comprehensive and up to date review of the town's ordinances.

Following this preface is an outline of the ordinance adoption procedures, if any, prescribed by the town's charter.

The code has been arranged and prepared in loose-leaf form to facilitate keeping it up to date. MTAS will provide updating service under the following conditions:

- (1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 8 of the adopting ordinance).
- (2) That one copy of every ordinance adopted by the town is kept in a separate ordinance book and forwarded to MTAS annually.
- (3) That the town agrees to reimburse MTAS for the actual costs of reproducing replacement pages for the code (no charge is made for the consultant's work, and reproduction costs are usually nominal).

When the foregoing conditions are met MTAS will reproduce replacement pages for the code to reflect the amendments and additions made by such

ordinances. This service will be performed at least annually and more often if justified by the volume of amendments. Replacement pages will be supplied with detailed instructions for utilizing them so as again to make the code complete and up to date.

The able assistance of Sandy Selvage, the MTAS Sr. Word Processing Specialist who did all the typing on this project, and Tracy Gardner, Administrative Services Assistant, is gratefully acknowledged.

Steve Lobertini
Codification Specialist

**ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE
TOWN CHARTER**

SECTION 2.08. TOWN LEGISLATION. BE IT FURTHER ENACTED,
That:

(a) Any action of council having a regulatory or penal effect, relating to revenue or appropriation of money, awarding franchises, authorizing the borrowing of money, conveying or leasing or authorizing conveyance or lease of any lands of the town, or required to be done by ordinance or resolution, as the case may require, under this Charter or the general laws of the state, shall be done only by ordinance or resolution. Other actions of council may be accomplished by resolutions or motions. Ordinances and resolutions shall be in written form before being introduced, and a copy shall be furnished to each member of council in advance of the meeting at which introduced. The enacting clause of ordinances shall be "Be it ordained by the Council of the Town of Huntingdon:". No action of council shall be valid or binding unless approved by the affirmative vote of at least four members of council. Any ordinance which repeals or amends existing ordinances shall set forth at length the sections or subsections repealed or as amended. Every ordinance except an emergency ordinance must be approved on two readings not less than one week apart, and shall become effective 20 days after final approval unless its terms provide a later effective date. Every ordinance, except codes adopted by reference as provided in subsection (c) below, shall normally be read in full on the first reading; however, in the case of lengthy or complex ordinances, copies of which have been previously furnished the mayor, each councilmember and reviewed and approved by the town attorney as to legal form and content, the reading in full may be waived by the council upon motion duly made; carried and spread on the minutes of the meeting; the second reading may be by title only except that any amended provisions shall be read in full. Each resolution shall normally be read in full one time; however, in the case of lengthy or complex resolutions, copies of which have been previously furnished the mayor, each councilmember and reviewed and approved by the town attorney as to legal form and content, the reading in full may be waived by the council upon motion duly made; carried and spread on the minutes of the meeting. To meet a public emergency affecting life, health or property, an emergency ordinance may be adopted on two readings on separate days and become effective immediately, by the affirmative votes of four members of council, if the ordinance contains a full statement of the facts creating the emergency, but any emergency ordinance shall be effective for only 90 days. Appropriations, revenues, franchises, levy of taxes, or special privileges shall not be passed as emergency ordinances. Borrowing money may be passed as an emergency ordinance but must be paid back the same or following fiscal year.

(b) The council shall have the general and continuing ordinances of the town assembled into an official code of the town, a copy of which shall be kept

currently up to date by the town recorder and shall be available to the public. After adoption of the official code all ordinances shall be adopted, as additions to, deletions from, or amendments to the code.

(c) Standard codes, as defined in Section 1.02 (g), may be adopted by ordinances which contain only references to titles, dates, issuing organizations, and such changes to the standard codes as the council may deem desirable. Procedure prescribed by general law shall be followed when adopting such standard codes. Copies of the official code and any standard codes so adopted by reference shall be available to the public at prices fixed by the council.

(d) The original copies of ordinances, resolutions, contracts, and other documents shall be filed and preserved by the town recorder. The title and brief summary of each ordinance and resolution shall be published in a local newspaper within 10 days after its final approval.

TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

1. TOWN COUNCIL.
2. MAYOR.
3. RECORDER.
4. DIRECTOR OF PUBLIC SAFETY.
5. PUBLIC MEETINGS.
6. RECORDS MANAGEMENT, RETENTION, AND DISPOSAL.
7. DIRECTOR OF PUBLIC WORKS.
8. DIRECTOR OF ARTS AND EVENTS.
9. CODE OF ETHICS.

¹Charter references

See the charter index, the charter itself, and footnote references to the charter in the front of this code.

Municipal code references

Appropriation of public funds: title 20, chapter 3.

Building, plumbing, electrical and gas inspectors: title 12.

Fire department: title 7.

Utilities: titles 18 and 19.

Wastewater treatment: title 18.

Zoning: title 14.

Also, please note that Ord. #327, Sept. 1993, provides: "**BE IT FURTHER ORDAINED** by said Town Council that throughout the Huntingdon Municipal Code (Title 1 thru Title 20), any and/or all references to the "Police Chief", "Chief of Police" or "Chief, Police Department", and/or "Fire Chief" or "Chief, Fire Department", or other such references to the head of these departments, shall also be deemed a reference to the "Director of Public Safety"."

CHAPTER 1

TOWN COUNCIL¹

SECTION

- 1-101. Time and place of regular meetings.
- 1-102. Order of business.
- 1-103. General rules of order.
- 1-104. Town council meeting agenda deadline.
- 1-105. Salary of councilmember.

1-101. Time and place of regular meetings. The town council shall hold regular semi-monthly meetings at 6:00 P.M. on the second Tuesday and on the fourth Tuesday of each month at the town hall. (1978 Code, § 1-101, as amended by Ord. #483, Aug. 2005)

1-102. Order of business. At each meeting of the town council, the following regular order of business shall be observed unless dispensed with by a majority vote of the members present:

- (1) Call to order by the mayor.
- (2) Roll call by the recorder.
- (3) Reading of minutes of the previous meeting by the recorder and approval or correction.
- (4) Grievances from citizens.
- (5) Communications from the mayor.
- (6) Reports from committees, members of the town council, and other officers.
- (7) Old business.
- (8) New business.
- (9) Adjournment. (1978 Code, § 1-102)

¹For provisions in the charter regarding the town council, see particularly art. II. For provisions elsewhere regarding the following, see the articles or sections indicated:

- Budget--council's action on: § 4.05.
- Corporate powers: § 1.04.
- Functions and duties of town departments: § 3.01.
- Intergovernmental cooperation and contracting: art. V.
- Oath of office: § 3.08.
- Official depository--designation of: § 4.19.
- Recorder--approval of mayor's appointment: § 3.03.
- Town administrator--approval of mayor's appointment: § 3.02.
- Town attorney--appointment of: § 3.05.

1-103. General rules of order. The rules of order and parliamentary procedure contained in Robert's Rules of Order, Newly Revised, shall govern the transaction of business by and before the town council at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code. (1978 Code, § 1-103, modified)

1-104. Town council meeting agenda deadline. In order for the council to take action on an item of business at a council meeting, that item of business, except bills in excess of \$500.00, must be on the agenda for that meeting. In order to place an item of business on the agenda, the item of business must be presented to the recorder prior to 12:00 noon on the Friday prior to a regular council meeting. This shall not prevent the council, employees, and citizens from presenting items of business at a council meeting for discussion only. (1978 Code, § 1-104)

1-105. Salary of councilmember. Pursuant to § 2.03(b) of the town's charter, the salary of each councilmember shall be increased from \$50.00 per month, to \$100.00 per month, to be effective on and after November 5th, 1992, and subsequent to the biennial municipal elections of November 3rd, 1992. (1978 Code, § 1-105)

CHAPTER 2

MAYOR¹

SECTION

1-201. Generally supervises town's affairs.

1-202. Executes town's contracts.

1-203. To be bonded.

1-204. Mayor's salary.

1-201. Generally supervises town's affairs. The mayor shall have general supervision of all municipal affairs and may require such reports from the officers and employees as he may reasonably deem necessary to carry out his executive responsibilities. (1978 Code, § 1-201)

1-202. Executes town's contracts. The mayor shall execute all contracts as authorized by the town council. (1978 Code, § 1-202)

1-203. To be bonded. The mayor shall be bonded in the sum of fifty thousand dollars (\$50,000), with such surety as may be acceptable to the town council, upon entering upon his or her term of office. The premiums for which shall be payable from the general fund. (1978 Code, § 1-203)

1-204. Mayor's salary. Pursuant to § 2.03(b) of the town's charter, the salary of the mayor shall be increased from \$500.00 per month to \$1,000.00 per month, to be effective on and after November 5th, 1992, and subsequent to the biennial municipal elections of November 3rd, 1992. (1978 Code, § 1-204)

¹Charter references

Administrative duties of mayor: § 3.02.

Appointment of employees: § 3.05.

Bond: § 3.09.

Budget--mayor to submit: § 4.02.

Centralized purchasing: § 4.07.

Control of expenditures: § 4.06.

Election: § 2.01.

Oath of office: § 3.08.

Presiding officer of town council: § 2.04.

Sale of town property: § 4.09.

Vacancy in office of mayor: § 2.06.

Veto power: § 2.05.

CHAPTER 3

RECORDER¹

SECTION

1-301. To be bonded.

1-302. Duties of the recorder.

1-301. To be bonded. The recorder shall be bonded in the sum of fifty thousand dollars (\$50,000.00), with such surety as may be acceptable to the town council, before assuming the duties of his office. The premiums for which shall be payable from the general fund. (1978 Code, § 1-301)

1-302. Duties of the recorder. In addition to those basic duties which are established by § 3.04 of the town's charter, the recorder shall be and is hereby assigned the following additional duties:

(1) Director of Finance - responsible for supervision of the department of finance, which provides the general business office for the town.

(2) Budget and Fiscal Officer - responsible for preparation and supervision of budgets for all fund accounts of the town, and the receipt, investment, disbursement and accountability for all public funds of the town.

(3) Director of Personnel - responsible for development, implementation and maintenance of the town's approved personnel management policies and procedures.

(4) Purchasing Agent - responsible for development, implementation and monitoring of the town's approved purchasing policies and procedures.

(5) Property Control Officer - responsible for monitoring the acquisition, accountability and disposal of all real and personal property of the town; the establishment and maintenance of a fixed asset and equipment inventory, and the disposition of surplus or salvage equipment.

(6) Risk Management Officer - responsible for administering the various insurance plans and programs for the town, and the monitoring of the town's safety training and programs designed to minimize the town's liability exposure.

(7) Acting recording secretary to the Huntingdon Beer Board - provides administrative support. (Ord. #361, Feb. 1995)

¹Charter references

Appointment: § 3.03.

Bond: § 3.09.

Duties: § 3.03.

Oath of office: § 3.08.

CHAPTER 4

DIRECTOR OF PUBLIC SAFETY¹

SECTION

- 1-401. Establishment of position.
- 1-402. Appointment, confirmation and term.
- 1-403. Qualifications for position.
- 1-404. Duties and responsibilities.
- 1-405. Job classification and compensation.
- 1-406. Eligibility for employment benefits.

1-401. Establishment of position. There shall be and is hereby established, effective October 1st, 1993, the position of Director of Public Safety in and for the Town of Huntingdon, Tennessee. (1978 Code, § 1-2301)

1-402. Appointment, confirmation and term. The director shall be appointed by the mayor, subject to confirmation by the town council, and shall serve an indefinite term at the will and pleasure of the mayor. However, should it be in the best interest of the town, the director may be appointed by the mayor pursuant to a written contractual agreement for such services, subject to legal review of any contracts by the town attorney, and approval of the appointment and contract terms by the town council. If such be the case, said contract shall contain all the conditions and terms of said appointment, but shall not otherwise conflict with the provisions of this chapter. (1978 Code, § 1-2302)

1-403. Qualifications for position. All applicants for this position shall possess the following minimum qualifications:

- (1) Must be thirty (30) years of age or older.
- (2) Must have a degree in criminal justice or other comparable/further advanced training such as the Tennessee Law Enforcement Academy or equivalent certification.
- (3) Must have a minimum of five (5) years of experience in law enforcement.
- (4) Must obtain certification in fire prevention within one year from date of employment.

¹Ord. #327, (Sept. 1993) states: "BE IT FURTHER ORDAINED by said Town Council that throughout the Huntingdon Municipal Code (Title 1 thru Title 20), any and/or all references to the "Police Chief", "Chief of Police" or "Chief, Police Department", and/or "Fire Chief" or "Chief, Fire Department", or other such references to the head of these departments, shall also be deemed a reference to the "Director of Public Safety"."

(5) All applicants for this position must possess the following qualifications, which are requirements for a certified law enforcement officer pursuant to Tennessee Code Annotated, § 38-8-106:

- (a) Must be a citizen of the United States;
 - (b) Must be a high school graduate or possess equivalency;
 - (c) Must not have been convicted of or plead guilty to or entered a plea of nolo contendere to any felony charge or to any violation of any federal or state laws or city ordinances relating to force, violence, theft, dishonesty, gambling, liquor or controlled substances;
 - (d) Must not have been released or discharged under other than honorable conditions from any of the armed forces of the United States;
 - (e) Must have his/her fingerprints on file with the Tennessee Bureau of Investigation;
 - (f) Must pass a preemployment physical examination by a licensed physician;
 - (g) Must be of good moral character as determined by a thorough investigation conducted by the employing agency; and
 - (h) Must be free of all apparent mental disorders as described in the Diagnostic and Statistical Manual of Mental Disorders, Third Edition (DSM-III), of the American Psychiatric Association and be so certified by a qualified professional in the psychiatric or psychological fields prior to permanent employment.
- (6) Must be willing to submit to and pass a full background investigation prior to appointment.
- (7) Must be qualified as a disciplinarian and experienced in matters related to safety.
- (8) Must have considerable practical experience in preparation and administration of both operational and capital budgets.
- (9) Should have a good working knowledge of applicable personnel management techniques and procedures. (1978 Code, § 1-2303 as replaced by Ord. #396, Feb. 1998)

1-404. Duties and responsibilities. The director of public safety shall be responsible for the day-to-day administrative and operational oversight and supervision of all functions and activities of the fire and police departments of the Town of Huntingdon. The director shall report directly to, and be under the supervision of, the mayor. (1978 Code, § 1-2304)

1-405. Job classification and compensation. (1) A comprehensive job classification and description of duties shall be published for this position prior to the initial solicitation of applications for this position.

(2) The compensation for this position shall be initially determined by the review of the qualifications and suitability of the applicants, as recommended by the mayor and approved by the town council. Such compensation shall generally be consistent with the town's regular employee wage and salary plans. (1978 Code, § 1-2305)

1-406. Eligibility for employment benefits. By definition, the director shall be an "appointed official" rather than an "employee" of the Town of Huntingdon; however, unless otherwise provided by individual contract terms or conditions approved by the mayor and town council, the director shall be entitled to all the normal benefits of regular full-time employees of the town. (1978 Code, § 1-2306)

CHAPTER 5

PUBLIC MEETINGS

SECTION

- 1-501. Policy.
- 1-502. Authority.
- 1-503. Applicability.
- 1-504. Open meetings.
- 1-505. Governing body defined.
- 1-506. Meeting defined.
- 1-507. Notice of public meetings.
- 1-508. Minutes recorded and open to public.
- 1-509. Secret votes prohibited.
- 1-510. Actions nullified-exception.

1-501. Policy. It shall be the policy of the Town Council of the Town of Huntingdon that the formation of public policy and decisions is public business and shall not be conducted in secret, and that the active participation of the citizens of the town in the town's government is encouraged. (1978 Code, § 1-1401)

1-502. Authority. This regulation is promulgated pursuant to the provisions of § 2.03 of the charter of the Town of Huntingdon and Tennessee Code Annotated, §§ 8-44-101 through 8-44-106. (1978 Code, § 1-1402)

1-503. Applicability. The policies as hereinbelow established and ordained are applicable to all boards, commissions, and activities which are or may be created by the mayor and town council pursuant to the town's charter or other operative provisions of state or federal law.

- (1) As of January 1, 1986, these bodies are:
 - (a) Huntingdon Town Council.
 - (b) Huntingdon Beer Board.
 - (c) Huntingdon Board of Codes Adjustments and Appeals.
 - (d) Huntingdon Board of Zoning Appeals.
 - (e) Huntingdon Housing Authority.
 - (f) Huntingdon Industrial Development Board.
 - (g) Huntingdon Municipal-Regional Planning Commission.
 - (h) Huntingdon Recreation Commission.

(1978 Code, § 1-1403)

1-504. Open meetings. All meetings of any governing body of the Town of Huntingdon, Tennessee, are declared to be public meetings open to the public

at all times, except as provided by the Tennessee Constitution. [TCA §§ 8-44-101 - 106] (1978 Code, § 1-1404)

1-505. Governing body defined. "Governing body" means the members of any public body which consists of two (2) or more members, with the authority to make decisions for, or recommendations to, a public body on policy or administration. It also means a community action agency which administers community action programs under the provisions of 42 USC § 2790. [TCA § 8-44-102(b)]

Any governing body so defined by this section shall remain so defined, notwithstanding the fact that such governing body may have designated itself as a negotiation committee for collective bargaining purposes, and strategy sessions of a governing body under such circumstances shall be open to the public at all times. (1978 Code, § 1-1405)

1-506. Meeting defined. "Meeting" means the convening of a governing body of a public body for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter. "Meeting" does not include any on-site inspection of any project or program. [TCA § 8-44-102(c)]

Nothing in this section shall be construed as to require a chance meeting of two (2) or more members of a public body to be considered a public meeting. No such chance meetings, informal assemblages, or electronic communication shall be used to decide or deliberate public business in circumvention of the spirit or requirements of this part. (1978 Code, § 1-1406)

1-507. Notice of public meetings. The following procedure shall be used by all governmental bodies of the Town of Huntingdon in providing adequate public notice of public meetings:

(1) **Regular meetings.** Any such governmental body which holds a meeting previously scheduled by ordinance, resolution, or formal action of said body whereby said meeting is held at the same time/date/place at regular intervals shall publish a notice of said meetings at least once each year in the town's officially designated newspaper. The town recorder shall be responsible for publishing this public notice as a summary of all regular meetings for all governmental bodies of the town. This shall be done in January of each year. In addition, the town recorder shall maintain a public announcement board in the public lobby of the Huntingdon Municipal Building whereon all governmental bodies and their meeting times and dates shall be on public display.

(2) **Special or called meetings.** Any such governmental body meeting in special called session shall give public notice of such meetings as follows:

(a) Any such body which normally meets only "on call", as required to discharge its responsibilities, will cause a notice of the time, place and purpose of such called meeting to be published one (1) time in

a local newspaper of general circulation within the town at least seven (7) calendar days prior to the date of the meeting (the date of publication will be considered as the first day of the notice period). Further, said notice shall be furnished a local radio station; shall be posted on the bulletin board in the lobby of the Huntingdon Municipal Building, and shall be furnished all members of the body concerned and those other parties having an interest in the purpose of said meeting. The minutes of such called meeting shall contain a statement as to the purpose of such called meeting and the means public notice thereof was provided.

(b) Any such body which meets on a regular, announced basis, but which has need to meet in special or called sessions due to special circumstances, shall provide public notice of such called session not less than forty-eight (48) hours prior to the stated meeting time and date by personal, telephonic or written notification of the time, place and purpose of such meeting to a local newspaper of general circulation within the town and to a local radio station; by posting notice of same on the bulletin board in the Huntingdon Municipal Building, and by personal, telephonic or written notification to all members of the body concerned and other parties having an interest in the purpose of the meeting. The minutes of such special or called meetings shall contain a statement as to the purpose of such called meeting and the means public notice thereof was provided.

(3) Special meetings - emergency. In the event of bona fide emergencies a special session of a government body subject to this chapter may be called by its chairperson. Under these conditions, "adequate" public notice shall be construed to be given by personal or telephonic communication not less than four (4) hours prior to the meeting to both local newspapers, and both local radio stations (local meaning within Huntingdon), advising them of the time, place, date and agenda of the emergency special meeting. The minutes of all such special meetings shall reflect the cause of the emergency and the identity of those so notified.

(4) The public notice requirements of this section are in addition to, and not in substitution of, any other notices required by ordinance, resolution or by-laws of the town's governmental bodies, or by state or federal statute. (1978 Code, § 1-1407, as amended by Ord. #349, Aug. 1994)

1-508. Minutes recorded and open to public. The minutes of a meeting of any such governmental body shall be promptly and fully recorded, and shall be open to public inspection during reasonable hours. The minutes shall include, but not be limited to, a record of members present, all motions, proposals, ordinances, and resolutions offered or considered, the results of any votes taken, and a record of the individual votes in event of roll call. [TCA § 8-44-104(a)]

(1) The office of the town recorder is hereby designated as the official depository for all records of the governmental bodies of the town, not required by ordinance, resolution or law to be kept elsewhere. In those cases, an information copy of all minutes with addendums shall be filed with the town recorder for public information.

(2) Additionally, as staff personnel and space permits, the town recorder shall also provide administrative support services and records storage facilities for all such bodies. (1978 Code, § 1-1408)

1-509. Secret votes prohibited. All votes of any such governmental body shall be by public vote; public ballot or public roll call. No secret votes; secret ballots, or secret roll calls shall be allowed. As used in this chapter, "public vote" shall mean a vote in which the "aye" faction vocally expresses its will in unison and in which the "nay" faction, subsequently, vocally expresses its will in unison. [TCA § 8-44-104(b)] (1978 Code, § 1-1409)

1-510. Actions nullified - exception. Any action taken at a meeting of such bodies in violation of this chapter shall be void and of no effect, provided that this nullification of actions taken at such meetings shall not apply to any commitment, otherwise legal, affecting the public debt of the entity concerned. [TCA § 8-44-105]. (1978 Code, § 1-1410)

CHAPTER 6

RECORDS MANAGEMENT, RETENTION, AND DISPOSAL

SECTION

- 1-601. Purpose.
- 1-602. Adoption by reference of MTAS manual.
- 1-603. Appointment of records management officer.
- 1-604. Duties and responsibilities.

1-601. Purpose. The purpose of this chapter is to establish a formal records management program for the Town of Huntingdon; to designate a records management officer for said town, and to authorize the establishment of a records retention and disposal schedule therefor. (Ord. #357, Feb. 1995)

1-602. Adoption by reference of MTAS manual. Pursuant to T.C.A. § 10-7-404(b)(2), the Record Retention and Disposal Manual, April 1992 edition, as published by the Municipal Technical Advisory Service (MTAS) of the University of Tennessee, shall be and is hereby adopted by reference for use in the records management program of the Town of Huntingdon. (Ord. #357, Feb. 1995)

1-603. Appointment of records management officer. The Town Recorder of the Town of Huntingdon shall be and is hereby appointed "Records Management Officer" for said town, and shall discharge those duties normally associated with such office. (Ord. #357, Feb. 1995)

1-604. Duties and responsibilities. The records management officer shall be and is hereby authorized and directed to develop, implement and maintain a "Records Retention and Disposal Manual" for all public records required to be maintained by said town, not inconsistent with the aforesaid MTAS Manual and T.C.A. § 10-7-403 et. seq., which action shall be subject to review and approval by said town council. (Ord. #357, Feb. 1995)

CHAPTER 7

DIRECTOR OF PUBLIC WORKS

SECTION

- 1-701. Establishment of position.
- 1-702. Appointment, confirmation and term.
- 1-703. Qualifications for position.
- 1-704. Duties and responsibilities.
- 1-705. Job classification and compensation.
- 1-706. Eligibility for employment benefits.

1-701. Establishment of position. There shall be and is hereby established, effective September 1, 1996, the position of Director of Public Works in and for the Town of Huntingdon. (Ord. #382, Aug. 1996)

1-702. Appointment, confirmation and term. The director shall be appointed by the mayor, subject to confirmation by the town council, and shall serve an indefinite term at the will and pleasure of the mayor. However, should it be in the best interest of the town, the director may be appointed by the mayor pursuant to a written contractual agreement for such services, subject to legal review of any contracts by the town council. If such be the case, said contract shall contain all the conditions and terms of said appointment, but shall not otherwise conflict with the provisions of this chapter. (Ord. #382, Aug. 1996)

1-703. Qualifications for position. All applicants for this position shall possess the following minimum qualifications at the time of application:

(1) Two (2) years college education in civil engineering or related technical field is preferred. However, college work may be substituted by equivalent experience and training as approved by the mayor and council.

(2) Must have a minimum of ten (10) years progressively responsible experience in public works and public utility supervision. (Ord. #382, Aug. 1996)

1-704. Duties and responsibilities. The director of public works shall be responsible for directing the organization, planning, and co-ordination of activities relating to the Parks and Cemeteries Department, the Public Utilities Department, and the Public Works Department. The director of public works shall report directly to, and be under the supervision of the mayor.

Essential functions of the job shall include:

(1) Establishing procedures for the departments to economically and efficiently utilize personnel and equipment, including but no limited to, the area of purchasing, inventory control, equipment and facilities maintenance.

(2) Plans, schedules, and delegates work to be accomplished by supervisors and workers.

(3) Responsible for the day-to-day administrative and operational oversight and supervision of all functions and activities of the Parks and Cemeteries Department, the Public Utilities Department, and the Public Works Department. (Ord. #382, Aug. 1996)

1-705. Job classification and compensation. A comprehensive job classification and description of duties shall be published for this position prior to the initial solicitation of applications for this position.

The compensation for this position shall be initially determined by the review of the qualifications and suitability of the applicants, as recommended by the mayor and approved by the town council. Such compensation shall generally be consistent with the town's regular employee wage and salary plans. (Ord. #382, Aug. 1996)

1-706. Eligibility for employment benefits. By definition, the director shall be an "appointed official" rather than an "employee" of the Town of Huntingdon; however, unless otherwise provided by individual contract terms or conditions approved by the mayor and town council, the director shall be entitled to all the normal benefits of regular full-time employees of the town. (Ord. #382, Aug. 1996)

CHAPTER 8

DIRECTOR OF ARTS AND EVENTS

SECTION

- 1-801. Establishment of position.
- 1-802. Appointment, confirmation and term.
- 1-803. Qualifications for position.
- 1-804. Duties and responsibilities.
- 1-805. Job classification and compensation.
- 1-806. Eligibility for employment benefits.

1-801. Establishment of position. There shall be and is hereby established, effective July 1, 2005, the position of Director of Arts and Events in and for the Town of Huntingdon. (as added by Ord. #480, June 2005)

1-802. Appointment, confirmation and term. The director shall be appointed by the mayor, subject to confirmation by the town council, and shall serve an indefinite term at the will and pleasure of the mayor. However, should it be in the best interest of the town, the director may be appointed by the mayor pursuant to a written contractual agreement for such services, subject to legal review of any contracts by the town council. If such be the case, said contract shall contain all the conditions and terms of said appointment, but shall not otherwise conflict with the provisions of this chapter. (as added by Ord. #480, June 2005)

1-803. Qualifications for position. Applicants for this position shall possess the following minimum qualifications at the time of application:

- (1) A bachelor's degree in business administration with strong experience in the arts field is desired.
- (2) Must have a minimum of five (5) years progressively responsible experience in planning and co-ordination of activities relating to performing arts and events. (as added by Ord. #480, June 2005)

1-804. Duties and responsibilities. The director of arts and events shall be responsible for directing the organization, planning, and co-ordination of activities relating to the Dixie Carter Performing Arts and Academic Enrichment Center and other events of the Town of Huntingdon. The director of arts and events shall report directly to, and be under the supervision of the mayor. Essential functions of the job shall include:

- (1) Establishing policies and procedures for development and operation of the performing arts center and other events for the Town of Huntingdon.
- (2) Coordinating and scheduling all events and performances for the performing arts center.

(3) Planning and management of all activities related to performing arts center.

(4) Planning, scheduling, and delegating work to be accomplished by part-time workers.

(5) Responsibility for the day-to-day administrative and operational oversight and supervision of all functions and activities of the performing arts department. (as added by Ord. #480, June 2005)

1-805. Job classification and compensation. A comprehensive job classification and description of duties shall be published for this position prior to the initial solicitation of applicants for this position. The compensation for this position shall be initially determined by the review of the qualifications and suitability of the applicants, as recommended by the mayor and approved by the town council. Such compensation shall generally be consistent with the town's regular employee wage and salary plans. (as added by Ord. #480, June 2005)

1-806. Eligibility for employment benefits. By definition, the director shall be an "appointed official" rather than an "employee" of the Town of Huntingdon; however, unless otherwise provided by individual contract terms or conditions approved by the mayor and town council, the director shall be entitled to all the normal benefits of regular full-time employees of the town. (as added by Ord. #480, June 2005)

CHAPTER 9

CODE OF ETHICS

SECTION

- 1-901. Applicability.
- 1-902. Definitions.
- 1-903. Gift ban.
- 1-904. Gift ban exceptions.
- 1-905. Disposition of gifts.
- 1-906. Disclosure of personal interests by official with a vote.
- 1-907. Disclosure of personal interests in nonvoting matters.
- 1-908. Town recorder to maintain a disclosure file.
- 1-909. Ethics complaints.
- 1-910. Violations.
- 1-911. Town recorder to file copy of ordinance with Tennessee Ethics Commission.

1-901. Applicability. This chapter is the code of ethics for personnel of the municipality. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities. (as added by Ord. #499, May 2007)

1-902. Definitions. For the purposes of interpreting this chapter, the following words, terms, and phrases shall have the meanings ascribed to them in this section:

- (1) "Gift" means the transfer or conveyance of anything of economic value, regardless of form, without adequate and lawful consideration.
- (2) "Immediate family" means parents, spouse and children.
- (3) "Personal interest" means:
 - (a) The holding or acquisition of any financial or ownership interest of either ten thousand dollars (\$10,000.00) or five percent (5%) or greater in a business entity that has or is negotiating a contract of one thousand dollars (\$1,000.00) or more with the town, or is regulated by any agency of the city; or
 - (b) The ownership of any real estate having a value of one thousand dollars (\$1,000.00) or greater which the town has or is negotiating an acquisition, leasehold, or easement agreement;
 - (c) Any such financial or ownership interest as defined in § 1-902(4)(a) and (b) of this chapter by the officer or employee's spouse or immediate family member.

(4) "Town"/"city" means the municipality of Huntingdon, Tennessee. (as added by Ord. #499, May 2007)

1-903. Gift ban. Except as permitted in § 1-904 of this chapter, no covered official or employee, nor any immediate family member of a covered official or employee, shall intentionally or knowingly solicit or accept any gift as defined herein. (as added by Ord. #499, May 2007)

1-904. Gift ban exceptions. Section 1-903 of this chapter is not applicable to the following:

(1) Opportunities, benefits, and services that are available on the same conditions as for the general public.

(2) Anything for which the covered officer or employee, or a member of his or her immediate family, pays the fair market value.

(3) Any contribution that is lawfully made to the covered officer or employee's political campaign fund, or to that of his or her immediate family, including any activities associated with a fund-raising event in support of a political organization or candidate.

(4) Educational materials provided for the purpose of improving or evaluating municipal programs, performance, or proposals.

(5) A gift from a relative, meaning those persons related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great-aunt, great-uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, and including the father, mother, grandfather, or grandmother of the individual's spouse and the individual's fiance or fiancée.

(6) Anything provided by an individual on the basis of a personal friendship unless the recipient has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the recipient or his or her spouse or immediate family member and not because of the personal friendship. In determining whether a gift is provided on the basis of personal friendship, the recipient shall consider the circumstances under which the gift was offered, such as:

(a) The history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals; and

(b) Whether to the actual knowledge of the recipient the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and

(c) Whether to the actual knowledge of the recipient the individual who gave the gift also at the same time gave the same or

similar gifts to other officers or employees, or their spouses or immediate family members.

(7) Food or refreshments not exceeding fifty dollars (\$50.00) per person in value on a single calendar day; provided that the food or refreshments are:

(a) Consumed on the premises from which they were purchased or prepared; or

(b) Catered.

For the purposes of this chapter, "catered" means food or refreshments that are purchased ready to consume which are delivered by any means.

(8) Food, refreshments, lodging, transportation, and other benefits resulting from the outside business or employment activities (or outside activities that are not connected to the official duties of an officer or employee), if the benefits have not been offered or enhanced because of the official position or employment of the officer or employee, and are customarily provided to others in similar circumstances.

(9) Intra-governmental and intergovernmental gifts. For the purpose of this chapter, "intra-governmental gift" means any gift that is given to an officer or employee from another officer or employee, and "intergovernmental gift" means any gift given to an officer or employee by an officer or employee of another governmental entity.

(10) Bequests, inheritances, and other transfers at death.

(11) Ceremonial gifts or awards which have insignificant monetary value.

(12) Unsolicited gifts of nominal value or trivial items of informational value. (as added by Ord. #499, May 2007)

1-905. Disposition of gifts. An officer or employee, his or her spouse or an immediate family member, does not violate this chapter if the recipient promptly takes reasonable action to return a prohibited gift to its source or gives the gift or an amount equal to its value to an appropriate charity that is exempt from income taxation under section 501(c)(3) of the Internal Revenue Code of 1986, as now or hereafter amended, renumbered, or succeeded. (as added by Ord. #499, May 2007)

1-906. Disclosure of personal interests by official with a vote. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects the official's vote on the measure. Additionally, the official may recuse himself or herself from voting on the measure. (as added by Ord. #499, May 2007)

1-907. Disclosure of personal interests in nonvoting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects

the exercise of discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the city recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself or herself from the exercise of discretion in the matter. (as added by Ord. #499, May 2007)

1-908. Town recorder to maintain a disclosure file. The town recorder shall keep and maintain all financial disclosure statements required to be filed herein as public records and shall retain them for a period of five (5) years after which the statements shall be destroyed. (as added by Ord. #499, May 2007)

1-909. Ethics complaints. (1) The town attorney is designated at the ethics officer of the town. Upon the written request of an official or employee potentially affected by a provision of this chapter, the town attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable laws.

(2) Except as otherwise provided in this chapter, the town attorney shall investigate any credible complaint against an appointed official or employee charging any violation of this chapter, or may undertake an investigation on his own initiative when he acquires information indicating a possible violation and make recommendations to end or seek retribution for any activity that, in the attorney's judgment, constitutes a violation of this chapter. The town attorney may request that the city council retain another attorney, individual, or entity to act as ethics officer when he has or will have a conflict of interests in a particular matter.

(3) When a complaint of a violation of any provision of this chapter is lodged against the mayor or a member of the town council, the town council shall either determine that the complaint has merit, determine that the complaint does not have merit, or determine that the complaint has sufficient merit to warrant further investigation. If the town council determines that a complaint warrants further investigation, it shall authorize an investigation by the town attorney or another individual or entity chosen by the town council.

(4) When a violation of this chapter also constitutes a violation of the town's personnel policies, rules, or regulations, the violation shall be dealt with as a violation of the personnel provisions rather than as a violation of this chapter. (as added by Ord. #499, May 2007)

1-910. Violations. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the town charter or other applicable law and, in addition, is subject to censure by the town council. An appointed official or employee who violates any provision of this chapter is subject to disciplinary

action up to, and including, termination of employment. (as added by Ord. #499, May 2007)

1-911. Town recorder to file copy of ordinance with Tennessee Ethics Commission. Upon adoption by the board of mayor and aldermen, the town recorder is hereby directed to file a duly signed and attested copy of the ordinance comprising this chapter with the Tennessee Ethics Commission, in compliance with section 49 of Public Chapter No.1 of the Extraordinary Sessions of the 2006 Tennessee General Assembly. (as added by Ord. #499, May 2007)

TITLE 2**BOARDS AND COMMISSIONS, ETC.****CHAPTER**

1. RECREATION ADVISORY BOARD.
2. UNIFIED BOARD OF CODES ADJUSTMENTS AND APPEALS.

CHAPTER 1**RECREATION ADVISORY BOARD****SECTION**

- 2-101. Creation, authority, purpose and title.
- 2-102. Membership and terms.
- 2-103. Officers.
- 2-104. Function.
- 2-105. Administration
- 2-106. Compensation and funding.

2-101. Creation, authority, purposed and title. The authority to fund, create, operate and maintain parks and recreation facilities and to conduct recreation programs shall be retained by the governing body; however, pursuant to Tennessee Code Annotated, § 11-24-103(b)(1), there shall be and is hereby create an advisory body for the purpose of providing the governing body of the Town of Huntingdon, Tennessee (the "town council"), advice and guidance, and to provide a conduit for input from the general population as to the effective creation, operation and maintenance of parks and recreation facilities and/or recreation programs for said town. This body shall be named and known as the "Recreation Advisory Board of the Town of Huntingdon" (the "board"). (1978 Code, § 1-1001, as amended by Ord. #349, Aug. 1994)

2-102. Membership and terms. The membership of the board shall consist of five (5) members, appointed by the mayor for staggered terms of five (5) years. At the time of the original five (5) appointments, to initiate the staggered terms, one member will be appointed for one (1) year, one for two (2) years, one for three (3) years, one for four (4) years, and one for five (5) years. Thereafter, all appointments or reappointments will be for terms of five (5) years.

(1) The membership of the board shall be representative of all sections of the community, but one (1) member shall be selected from the Huntingdon school system.

(2) The serving mayor and superintendent of parks and cemeteries shall serve as members ex-officio during their respective terms. (1978 Code, § 1-1002)

2-103. Officers. At the first meeting of the board subsequent to its creation, the members shall elect from the membership a chairperson, vice-chairperson and secretary to serve for their respective terms of appointment. (1978 Code, § 1-1003)

2-104. Function. The affairs of the board shall be conducted in a manner determined by the town council. The board shall not be responsible for the supervision of staff, the hiring or dismissal of staff, the expenditure of public funds or the promulgation or enforcement of rules and regulations governing parks and recreation facilities or programs; however, the board may advise the town council on any of these matters and act on behalf of said council, on a case by case basis, if so authorized by the governing body. (1978 Code, § 1-1004)

2-105. Administration. The board shall set its own by-laws and meeting schedule in accordance with the open meeting laws of the state. Official minutes shall be recorded for each meeting, a copy of which shall be furnished the town council at their next subsequent meeting. The department of finance and administration shall provide the board such administrative support as it may need, within the limits of its capabilities. (1978 Code, § 1-1005)

2-106. Compensation and funding. All members of the board shall serve without pay; however, with prior approval of the mayor and funding by the town council, members may be reimbursed for actual expenses involved in the discharge of their official duties on behalf of the town pursuant with the town's comprehensive travel regulations. Incidental funding for operations of the board may be provided by the town council in the town's normal budgeting processes. (1978 Code, § 1-1006)

CHAPTER 2

UNIFIED BOARD OF CODES ADJUSTMENTS AND APPEALS

SECTION

2-201. Creation of board; membership and terms.

2-202. Organizational meeting.

2-203. Business meetings.

2-204. Records to be maintained.

2-205. Duties of the board.

2-206. Procedure.

2-207. Decisions.

2-201. Creation of board; membership and terms. There is hereby created a board which shall be known as the Unified Board of Codes Adjustments and Appeals of the Town of Huntingdon, Tennessee, to represent said town in the receipt, consideration, and determination of claims for adjustments and/or appeals related to the plumbing code, electrical code, gas code, and the fire prevention code,¹ which shall consist of not less than three (3) members appointed by the mayor. The members shall be residents of the town, shall be at least twenty five (25) years of age, and, where possible, possess a working knowledge of the building trades. Members of the board shall be appointed for three (3) year terms, except that on the initial appointment, one shall be appointed for one year, one for two years, and one for three years. Any one or more members of said board shall be subject to removal or replacement by the mayor at any time in accordance with § 3.08 of the charter, and a vacancy on said board shall be filled by the mayor for the unexpired term of such vacancy. The members of the board shall serve without compensation. (1978 Code, § 4-601)

2-202. Organizational meeting. As soon as practical after their appointment, the members of the Unified Board of Codes Adjustments and Appeals shall meet and organize by electing a chairman, vice-chairman, and secretary. Thereafter, officers of the board shall be elected by the members at the first annual meeting of the board. (1978 Code, § 4-602)

2-203. Business meetings. The board shall meet upon call of the chairman as soon as practical after the receipt of an appeal to one of the above listed codes, but in no instance shall the meeting be called later than fifteen (15)

¹Municipal code references

Building, utility, etc. codes: title 12.

Fire code: title 7.

days subsequent to the receipt of such appeal. The board shall normally meet at the board room, city hall, Town of Huntingdon. Reasonable notice of the place, time, and date of such meetings shall be given all members of the board and all interested parties in each case to be heard by the board. (1978 Code, § 4-603)

2-204. Records to be maintained. All minutes of the board meetings shall be public records and the secretary of the board shall keep all records and perform such additional duties as the board may deem proper. (1978 Code, § 4-604)

2-205. Duties of the board. The duties of the Unified Board of Codes Adjustments and Appeals shall be:

(1) To consider and determine appeals whenever it is claimed that the true intent and meaning of the codes, supra, or any of the regulations thereunder have been misconstrued or wrongly interpreted.

(2) To permit, in appropriate cases where the application of the requirements of said codes in the allowance of the stated time for the performance of any action required thereby would appear to cause undue hardship on an owner, firm, or person(s) performing such action, a reasonable extension of time to be determined by the board when hearing such case.

No appeal shall be considered where an appeal case has been previously decided involving the same action or premises. (1978 Code, § 4-605)

2-206. Procedure. The board shall establish its own rules of procedure for accomplishment of its duties and functions, provided that such rules shall not be in conflict with the provisions of the codes listed above and the laws of the state. (1978 Code, § 4-606)

2-207. Decisions. All decisions of the Unified Board of Codes Adjustments and Appeals to vary the application of any provision of the aforesaid codes or to modify an order of the applicable inspecting official shall specify in what manner such variance or modification is made, the conditions upon which it is made, and the reasons therefor. Every decision shall be in writing and shall indicate the vote upon the decision. A copy of all decisions shall be promptly filed in the recorder's office and shall be open to public inspection. The secretary shall notify the appellant in writing of the final action of the board. (1978 Code, § 4-607)

TITLE 3

MUNICIPAL COURT¹

CHAPTER

1. TOWN JUDGE.
2. COURT ADMINISTRATION.
3. WARRANTS, SUMMONSES AND SUBPOENAS.
4. BONDS AND APPEALS.

CHAPTER 1

TOWN JUDGE

SECTION

3-101. Town judge.

3-101. Town judge. The town council shall appoint a person to handle judicial matters within the town and to preside over the town court, and the person so appointed shall be known as the town judge. (1978 Code, § 1-501)

¹Charter reference: 3.06.

CHAPTER 2

COURT ADMINISTRATION

SECTION

- 3-201. Maintenance of docket.
- 3-202. Imposition of fines and costs.
- 3-203. Disturbance of proceedings.
- 3-204. Trial and disposition of cases.
- 3-205. Court clerk.

3-201. Maintenance of docket. The docket required to be kept by § 3.06(e) of the town's charter shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; fines, penalties, and costs imposed and whether collected; whether committed to workhouse; and all other information that may be relevant. (1978 Code, § 1-502)

3-202. Imposition of fines and costs. All fines and costs shall be imposed and recorded by the town judge on the town court docket in open court.

In all cases heard or determined by him, the town judge shall tax in the bill of costs the same amounts and for the same items allowed in courts of justices of the peace¹ for similar work in state cases. (1978 Code, § 1-509)

3-203. Disturbance of proceedings. It shall be unlawful for any person to create any disturbance of any trial before the town court by making loud or unusual noises, by using indecorous, profane, or blasphemous language, or by any distracting conduct whatsoever. (1978 Code, § 1-513)

3-204. Trial and disposition of cases. Every person charged with violating a municipal ordinance shall be entitled to an immediate trial and disposition of his case, provided the town court is in session or the town judge is reasonably available. However, the provisions of this section shall not apply when the alleged offender, by reason of drunkenness or other incapacity, is not in a proper condition or is not able to appear before the court. (1978 Code, § 1-506)

3-205. Court clerk. A town court clerk may be employed to assist the town judge in the issuance of warrants, subpoenas, and summonses; maintenance of the docket books; the receipt and accounting of fines, costs,

¹State law reference

Tennessee Code Annotated, § 8-21-401.

forfeitures; etc. (in accordance with guidelines of the Department of Finance); and other such administrative services as may be required by the town judge. (1978 Code, § 1-512)

CHAPTER 3

WARRANTS, SUMMONSES AND SUBPOENAS

SECTION

3-301. Issuance of arrest warrants.

3-302. Issuance of summonses.

3-303. Issuance of subpoenas.

3-301. Issuance of arrest warrants.¹ The town judge shall have the power to issue warrants for the arrest of persons charged with violating municipal ordinances. (1978 Code, § 1-503)

3-302. Issuance of summonses. When a complaint of an alleged ordinance violation is made to the town judge, the judge may in his discretion, in lieu of issuing an arrest warrant, issue a summons ordering the alleged offender to personally appear before the town court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the ordinance alleged to have been violated. Upon failure of any person to appear before the town court as commanded in a summons lawfully served on him, the cause may be proceeded with ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal. (1978 Code, § 1-504)

3-303. Issuance of subpoenas. The town judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (1978 Code, § 1-505)

¹State law reference

For authority to issue warrants, see Tennessee Code Annotated, title 40, chapter 6.

CHAPTER 4

BONDS AND APPEALS

SECTION

3-401. Appearance bonds authorized.

3-402. Appeals.

3-403. Bond amounts, conditions, and forms.

3-404. Deposit of operator's or chauffeur's license in lieu of bond.

3-401. Appearance bonds authorized. When the town judge is not available or when an alleged offender requests and has reasonable grounds for a delay in the trial of his case, he may, in lieu of remaining in jail pending disposition of his case, be allowed to post an appearance bond with the town judge or, in the absence of the judge, with the ranking police officer on duty at the time, provided such alleged offender is not drunk or otherwise in need of protective custody. (1978 Code, § 1-507)

3-402. Appeals. Any defendant who is dissatisfied with any judgment of the town court against him may, within ten (10) days next after such judgment is rendered, appeal to the next term of the circuit court upon posting a proper appeal bond.¹ (1978 Code, § 1-510)

3-403. Bond amounts, conditions, and forms. An appearance bond in any case before the town court shall be in such amount as the town judge shall prescribe and shall be conditioned that the defendant shall appear for trial before the town court at the stated time and place. An appeal bond in any case shall be in the sum of two hundred and fifty dollars (\$250.00) and shall be conditioned that if the circuit court shall find against the appellant, the fine or penalty and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appearance or appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property located within the county. No other type bond shall be acceptable. (1978 Code, § 1-511)

3-404. Deposit of operator's or chauffeur's license in lieu of bond. Pursuant to Tennessee Code Annotated, §§ 55-50-801 through 55-50-804 any person issued a citation or arrested and charged with the violation of any municipal ordinance of the Town of Huntingdon which regulates traffic, except

¹State law reference

Tennessee Code Annotated, § 27-5-101.

those ordinances which call for the mandatory revocation of his operator's license for any period of time, may have the option of depositing his driver's or chauffeur's license which was issued to him by the Department of Safety of the State of Tennessee or under the driver licensing laws of any other state or territory or the District of Columbia with the officer or court demanding bail in lieu of any other security required for his appearance in the town court in answer to such charge.

Upon the deposit of such license, either the officer or the court shall issue said person a receipt for said license upon the form approved or provided by the Department of Safety of the State of Tennessee. (1978 Code, § 1-508)

TITLE 4**MUNICIPAL PERSONNEL****CHAPTER**

1. SOCIAL SECURITY FOR OFFICERS AND EMPLOYEES.
2. PERSONNEL REGULATIONS.
3. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
4. INFECTIOUS DISEASE CONTROL POLICY.
5. AMERICANS WITH DISABILITIES ACT PROGRAM.
6. COMPREHENSIVE TRAVEL REGULATIONS.
7. HAZARDOUS CHEMICAL POLICY AND PROCEDURE.
8. FAIR LABOR STANDARDS PRACTICES.
9. SEXUAL HARASSMENT POLICY.
10. CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING POLICY AND PROCEDURES FOR PERSONNEL TO COMMERCIAL DRIVERS LICENSE.

CHAPTER 1**SOCIAL SECURITY FOR OFFICERS AND EMPLOYEES****SECTION**

- 4-101. Policy and purpose as to coverage.
- 4-102. Necessary agreements to be executed.
- 4-103. Withholdings from salaries or wages.
- 4-104. Appropriations for employer's contributions.
- 4-105. Records to be kept and reports made.
- 4-106. Exclusions.

4-101. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of the Town of Huntingdon to provide for all eligible employees and officials of the town, whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old age and survivors insurance. In pursuance of said policy, and for that purpose, the town shall take such action as may be required by applicable state and federal laws or regulations.

(1) For the purpose of this section, the following are specifically designated as "eligible employees and officials of the town":

- (a) The duly elected and serving mayor.
- (b) All duly elected and serving councilmembers.
- (c) The duly appointed and serving town recorder.
- (d) The duly appointed and serving town judge.

(e) All regular or probationary employees of the Town of Huntingdon, either full-time, part-time, temporary or seasonal, but specifically excluding the volunteer firefighters not otherwise regular employees of the town.

(2) For the purpose of this section, the law offices of the appointed town attorney are excluded from "eligible employees and officials of the town" in that this appointment is deemed as a contractual service by the legal firm, for which a monthly retainer fee is paid, rather than an the appointment of an individual attorney. (1978 Code, § 1-701)

4-102. Necessary agreements to be executed. The mayor is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (1978 Code, § 1-702)

4-103. Withholdings from salaries or wages. Withholdings from the salaries or wages of employees and officials for the purpose provided in the first section of this chapter are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations. (1978 Code, § 1-703)

4-104. Appropriations for employer's contributions. There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1978 Code, § 1-704)

4-105. Records to be kept and reports made. The town shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1978 Code, § 1-705)

4-106. Exclusions. The mayor thereof be duly authorized and directed to amend the Social Security Agreement by and between the Town of Huntingdon and the State Old Age & Survivors Insurance Agency, to exclude from its coverage group under the Federal System of Old Age, Survivors, Disability, Health Insurance, the services of election workers and election officials if the remuneration paid for such services in a calendar year is less than \$1,000.00 on or after January 1st, 1995, ending on or before December 31st, 1999, and, the adjusted amount thereafter determined under Section 218(c)(8)(B) of the Social Security Act, for any calendar year commencing on or after January 1st, 2000. (Ord. #354, Nov. 1994)

CHAPTER 2

PERSONNEL REGULATIONS¹

SECTION

- 4-201. Authority and policy statements.
- 4-202. Functions and procedures.
- 4-203. Employee application and processing.
- 4-204. Personnel manning authorizations.
- 4-205. Classification and method of payment.
- 4-206. Work schedules.
- 4-207. Holidays authorized.
- 4-208. Annual leave policy.
- 4-209. Sick leave policy.
- 4-210. Bereavement leave policy.
- 4-211. Military leave policy.
- 4-212. Special leave policy.
- 4-213. Terminal leave policy.
- 4-214. Family and medical leave policy.
- 4-215. Employee absence for jury duty.
- 4-216. Employee group insurance plan.
- 4-217. Employee workers compensation insurance plan.
- 4-218. Employee retirement plan.
- 4-219. Counseling and evaluation.
- 4-220. Suspension and termination.
- 4-221. Council/employee relations committee.
- 4-222. Employee appeal board.

4-201. Authority and policy statements. (1) Authority. These personnel regulations are promulgated pursuant to the authority contained in § 3.09 of the Charter of the Town of Huntingdon.

(2) General restrictions on terms of employment. The Town of Huntingdon, pursuant to the constitution, laws and judicial decisions of the State of Tennessee, is a "free-will" employer and, while due efforts shall be made to treat each and every employee, either regular full time, part time, probational, temporary or seasonal, on a fair and equitable basis, it reserves unto itself the full and unencumbered right in all cases where no specific written and duly executed contract to the contrary exists between the town and an employee, officer or official, to terminate any one or number of employees of said

¹Charter references

Employees--appointment, etc.: § 3.05.

Political activity of employees: §§ 3.10 and 3.11.

town where there is "due cause" in individual cases as set forth hereinbelow or other approved policies of the town, or where the need for an employee's services no longer exist, either through elimination or consolidation of job positions, or by reduction-in-force caused by budgetary limitations.

(3) Prohibited conduct or activities by employees or officials. (a) No town officer or employee shall accept any money or other consideration or favor from anyone other than the town for the performance of an act which he would be required or expected to perform in the regular course of his duties; nor shall any officer or employee accept, directly or indirectly, any gift, gratuity, or favor of any kind which might reasonably be interpreted as an attempt to influence his actions with respect to the town's business.

(b) No officer or employee shall use or authorize the use of time, facilities, equipment, or supplies of the town for private gain or advantage to himself or any other private person or group. Provided, however, that this prohibition shall not apply where the town council has authorized the use of such time, facilities, equipment, or supplies, and the town is paid at such rates as are normally charged by private sources for comparable services.

(c) No town officer or employee shall make or attempt to make private purchases, for cash or otherwise, in the name of the town, nor shall he otherwise use or attempt to use his position to secure unwarranted privileges or exemptions for himself or others.

(d) No town officer or employee shall participate in any strike against the town, nor shall he join, be a member of, or solicit any other town employee or officer to join any labor union which authorizes the use of strikes by government employees.

(e) No full time officer or employee of the town shall accept any outside employment without a written authorization from the mayor. The mayor shall not grant such authorizations if the work is likely to interfere with the satisfactory performance of the officer's or employee's duties, or is incompatible with his town employment, or is likely to cast discredit upon or create embarrassment for the town.

(f) Due to the nature of the town's governing body and the small number of employees, it is not considered to be in the best interest of the town nor its citizens for its employees to actively participate in the election campaigns of candidates for the offices of mayor or councilmember of the town.

(i) Actively is defined as canvassing or soliciting for votes for any such candidate on a public basis; to provide public advertising therefor, or to act as a public speaker at public functions in support thereof, etc.

(ii) This policy is in no way intended to infringe on the rights of any individual employee to privately express his support

or to exercise his prerogatives of voting for any candidate of his choice for these offices; however, due to the close working relationships and conditions of employment that must of necessity exist in a local governmental operation of limited size, such as the Town of Huntingdon, friction between employees and officials and interference with normal performance of official duties may reasonably be expected to arise in such cases and should be avoided as much as possible. (1978 Code, § 1-801)

4-202. Functions and procedures. (1) Personnel officer. The town recorder, in addition to his other duties, is designated as the personnel officer; however, nothing herein is to increase or diminish the rights or benefits or bestow rights not set forth as to the office of town recorder, as set forth in the Charter of the Town of Huntingdon. It shall be the duty of the personnel officer to assure the implementation of all policies and procedures pertaining to the personnel management of all employees of the Town of Huntingdon as required by action of the town council or other action of state or federal government which effects the personnel of the town or requires compliance by the town. He is responsible for administering the town's personnel management program and implementation of the employment policies as set forth hereinafter by the mayor and council, under the supervision thereof.

(2) Personnel office. The Department of Finance and Administration, Town of Huntingdon, is hereby designated as the "Personnel Office" of the town, and shall provide such logistical support as necessary to this office.

(3) Personnel management specialist. One (1) staff position in the Department of Finance and Administration shall be established and designated as the "Personnel Management Specialist." This individual shall be responsible for the day-to-day administration and maintenance of the town's personnel related activities, to include creation and maintenance of individual personnel files; administering the payroll and related collection of withholding tax, social security, etc. He or she shall also be responsible for the administering of the town's employee group insurance plan, retirement plan, workers compensation/injury/accident reporting activity, and such other personnel or employee related activities as may be required by, and under the supervision of, the personnel officer. (1978 Code, § 1-802)

4-203. Employee application and processing. The Town of Huntingdon is an "Equal Opportunity Employer" and an "Affirmative Action Employer." All hiring procedures shall be governed by these programs as promulgated by separate regulations of the town. It is and shall be the policy of the Town of Huntingdon that all persons seeking employment with and/or employed by said town, shall have equal employment opportunity regardless of race, religion, creed, color, sex, national origin, ethnic derivation, age or non-restrictive handicap, and that all recruitment, hiring and promotion for all

job classifications shall be without regard thereto, and based solely on the basis of valid job requirement and the related qualifications, capabilities and suitability of the employee, but subject to applicant's legal eligibility for employment pursuant to the U.S. Immigration Reform and Control Act of 1986. The town does recognize satisfactory prior employment performance, and will give preference to interdepartmental transfers or departmental promotion to qualified employees in filling a vacancy. In keeping therewith the following procedures will be followed:

(1) Applications. The town does not accept applications for non-advertised positions, nor does it maintain a file of applications for prior actions. When a position vacancy occurs the responsible department/activity supervisor shall notify the personnel officer and provide him with the prerequisites of the position. The personnel officer shall prepare the proper advertisement which shall be placed in the town's official newspaper at least one (1) time, and also notify the local job services office. Normally, the cut-off date for accepting applications will be at least 7 days subsequent to the last date of publication in the official newspaper. The personnel office will assist in providing and collecting all applications.

(2) Screening and interview. When all applications have been received and tabulated, they shall be forwarded to the appropriate department/activity supervisor for review, pre-employment screening and interviews. It shall be the responsibility of the departmental interviewer to ascertain the qualifications and suitability of the applicant, and to insure that the applicant is aware of the specific duties and responsibilities of the position being applied for, as well as the compensation therefor, and for the proper completion of the "Interview Report" form. The proper initial screening and interview cannot be over-emphasized if the town is to obtain and retain efficient and conscientious employees. The responsibility for this program rest primarily with the interviewer and the direct supervisors.

(3) Approval of non-supervisory employees. Applicants for non-supervisory positions are recommended by the departmental supervisor and approved by the mayor. At the conclusion of the interview, the interviewer shall complete the appropriate sections of the application/interview form, and inform the applicant that final approval must be made by the mayor, and further, that any initial employment will be on a probationary status for a period of three (3) months.

(4) Approval of supervisory employees. Applicants for the positions of superintendent or administrative heads of all line departments shall be screened, interviewed and recommended by the mayor and approved by the town council.

(5) In-processing by personnel. No potential employee shall commence work until he or she has been processed by the personnel office, and the required documentation completed.

(6) Probationary status. Each applicant selected for employment by the town must be made fully aware that his or her initial employment shall be probationary in nature for a period of three (3) months only. This shall serve as an observation and evaluation period. At the end of this probation period the appropriate supervisor shall render the prescribed "Evaluation Report." If the employee's performance of duty, attitude, job behavior, etc., are satisfactory, the supervisor may recommend the employee for regular employment status with the prescribed wage/salary adjustment. However, should the employee prove to be unsatisfactory, for whatever reason, he or she should be advised of such and terminated not later than the end of the three (3) months probation period. It is incumbent upon the supervisor to closely observe and monitor the employee's activity during the probationary period, and to provide counselling where appropriate. Should a probationary employee prove to be unsatisfactory, and counselling and guidance prove ineffective, the employee must be terminated prior to the end of the probationary period.

(7) Preemployment physical examination. Each applicant selected for employment, whether full time, part time or seasonal, shall be required to pass a preemployment physical examination to determine his or her physical ability to perform the required tasks. (1978 Code, § 1-803)

4-204. Personnel manning authorizations. (1) General. Each position of employment within each department or activity of the Town of Huntingdon shall be specifically designated within each department, to include the job title, initial grade/step level for each position. These positions shall be consolidated into the Authorized Manning Levels which shall be attached as Appendix 2 to the annual line item budget for each fiscal year, and approved by the council for the ensuing fiscal year. Unless amended by proper authority, this document will govern all authorized positions of employment of the town for the fiscal year.

(2) Grade levels. The initial (entry) level for each position shall be recommended by the mayor and reviewed and approved by the council concurrent with the annual budget documents. It shall be binding on the town council to review the assigned grade levels for each position not less than once each fiscal year, normally in conjunction with the annual budget preparation reviews.

(3) Classification of employees. (a) Full-time employees. All employees who are regular, year-around employees who work more than 30 hours in a seven day work week.

(b) Part-time employees. All employees who normally work less than 30 hours or less in a seven day work week, but who work on a regular basis.

(c) Seasonal employees. All employees who work 30 hours or more per seven day work week, but who are employed for a specific period of time during each fiscal year.

(d) Temporary employees. All employees who are hired to perform a specific task, regardless of the hours worked or the period of time. (1978 Code, § 1-804)

4-205. Classification and method of payment. (1) Pay grades and steps. There shall be two designators utilized to determine the pay grade and step of each employee: one (1) numerical digit to designate the grade level, and one (1) numerical digit to designate the step level within that grade, as follows:

(a) Only those designated officials or employees excepted from the fair labor standards practices pursuant to section 1-1503, hereinafter, shall be designated as "salary rate" (SR) personnel, and their status indicated by SR plus the appropriate grade and step digits. For example, a salary rate official or employee in grade level 10, step 5, should be designated as SR10-5.

(b) All other employees shall normally be employed at a specific hourly wage; shall be designated as Wage Rate (WR) employees, and their status indicated by WR plus the appropriate grade and step digits. For example, a wage rate employee in grade level 4, step 2, shall be designated as WR4-2.

(2) Salary and wage charts. During the budget preparation process for each fiscal year a "Salary and Wage Chart" shall be prepared which will indicate the salary or wage for each grade and each step therein. These charts, as approved by the town council, shall be included as Appendix 1 to the line item budgets and shall govern the salary and wages for the ensuing fiscal year.

(3) Annual increases in salaries and wages. During the budget preparation process for each fiscal year the town council shall review the estimated revenues; the general increase in the cost-of-living index, and other factors, to determine if a general increase in employee salary and wages is justified and economically feasible. Should the town council approve such a general increase in salaries and wages, these changes shall be reflected in the "Salary and Wage Charts" for the ensuing year, and shall also be published as the "Authorized Current Manning Levels," which shall be included as Appendix 3 to the line item budgets.

(4) Individual grade adjustments. At such time as a department supervisor believes that either an increase in the grade level of one of the employees in his or her department is justified by an increase in duties or responsibilities, or a decrease justified for disciplinary reasons, he or she will cause an "Employee Evaluation Report" to be prepared and submitted with his or her recommendations to the mayor for review and approval.

(5) Promotional adjustments. Any employee who is promoted to a higher grade level shall be placed in the appropriate step of the higher level to insure that the employee is not subject to a loss in net pay due to such change of grade classification.

(6) Pay periods. All employees will normally be paid on a weekly basis. The seven day pay week will end at 12:00 midnight each Thursday. Payroll checks will be issued each Friday, normally not later than 2:00 P.M. Should Friday fall on an approved holiday, the payroll check shall be issued the preceding work day. The annual salaries of salary rate employees shall be divided into weekly equivalents for the purpose of computing weekly payrolls. (1978 Code, § 1-805)

4-206. Work schedules. (1) Hours of work. Each department head shall establish the work hours for his or her particular department or activity which will most efficiently provide services for the citizens of the town, subject to the review and approval of the mayor. The Department of Finance and Administration will be open for the transaction of public business from 8:00 A.M. to 4:00 P.M. Mondays through Thursdays, and from 8:00 A.M. to 5:00 P.M. on Fridays, excluding authorized holidays.

(2) Overtime work. The accountability and payment for all overtime worked by employees of the town shall be governed by Title 1, Chapter 8, Fair Labor Standards Practices., of the HMC. Departmental/activity supervisors shall insure that all overtime work is held to the absolute minimum consistent with the health, safety and welfare of the town.

(3) Budgetary limitations. Each department or activity supervisor shall be responsible for insuring that the expenditures for salaries and wages, including overtime, do not exceed the budget appropriations therefor without the prior review by the director of finance and approval by the mayor. (1978 Code, § 1-806)

4-207. Holidays authorized. Effective from and after January 1st., 1985, the employees of the town shall be authorized the same annual holidays as those authorized for the employees of Carroll County, Tennessee. The following are the currently authorized (12) holidays:

New Years Day (Jan 1st)	Labor Day (1st Mon in Sep)
M.L. King's Birthday (Jan 15th)	Columbus Day (2nd Mon in Oct)
Washington's Birthday (3d Mon Feb)	Election Day (Nov Gen Elections)
Good Friday (Apr)	Veterans Day (2nd Mon in Nov)
Memorial Day (Last Mon in May)	Thanksgiving Day (Last Thu in Nov)
Independence Day (Jul 4th)	Christmas Day (Dec 25th)

(1978 Code, § 1-807)

4-208. Annual leave policy. An annual leave program is provided as a privilege but not a right of the town's employees. Abuse of the system may have detrimental effect on the program.

(1) Eligibility to accrue annual leave. It is recognized that the overall efficiency of operation is enhanced through a system of leave periods which provided the employee with a regular time of rest and relaxation away from the work place. Eligibility of the town's employees for this annual leave program is as follows:

(a) Regular employees: All regular, full-time employees of the town shall be eligible for annual leave which shall be eligible for annual leave which shall accrue at the rate of one (1) day of annual leave for each full month of service (12 days per fiscal year). Bonus days will be awarded in recognition of longevity, as follows:

Employees with between 10 and 15 years service....3 bonus days
 Employees with between 15 and 20 years service....6 bonus days
 Employees with over 20 years of service receive.....9 bonus days

(The employee is entitled only to the bonus leave days for the total years of service, for example, an employee with 22 years of service is only entitled to 9 bonus days, not 3 + 6 + 9.)

(b) Part-time, seasonal or temporary employees are not authorized annual leave.

(c) Probationary employees are not authorized to accrue annual leave; however, when such employee completes his or her probationary service and is classified as a regular, full-time employee, their annual leave shall be computed retroactively to their initial date of employment.

(2) Accrual of annual leave. Earned days of annual leave will be computed on a monthly basis, at the end of the qualifying month. For accounting purposes, annual leave is to be based on the town's fiscal year (1 July - 30 June).

(a) Bonus leave days shall be computed once annually, and shall accrue to the employee on the annual anniversary date of his or her employment, upon completion of the full year of qualifying service.

(3) Maximum accumulation of annual leave. As stated above, the purpose of providing employees annual leave is to allow them time away from their usual work routines; therefore, the number of annual leave days which may be carried forward into a new fiscal year shall be thirty (30) days. At the end of each fiscal year, which is each June 30th, all annual leave days in excess of thirty (30) days shall either be forfeited or transferred to his or her sick leave account as provided below.

(4) Payment for accrued annual leave. Upon termination of employment an employee, who does not otherwise forfeit his or her accrued annual leave benefits, will be paid for all his or her accrued annual leave, to the maximum number of days authorized, at his or her prevailing salary or wage. Withholding and social security, plus other payroll deductions or any refunds due the town from prior payments shall be applied to these payments.

(5) Annual leave may not be advanced. Annual leave cannot be granted in advance of its being earned.

(6) Scheduling of annual leave. Any employee may request to use his or her accrued annual leave at any time he or she prefers by application to his supervisor. Such request shall normally be approved, subject always to the superior right of the supervisor to plan the work under his control and to authorize absence only at such time as the employee can best be spared; however, every effort shall be made to grant annual leave at the times requested.

(7) Accounting for annual leave. (a) Each employee shall be provided an individual annual leave account record, on which all annual leave accrued and taken shall be recorded. This record shall be maintained by the personnel office, and shall be the only official copy. Supervisors may maintain "convenience" records if they wish; however, in all cases the official copy is the primary record. This leave account record shall become a permanent part of the employee's personnel file.

(b) Only scheduled work days shall be charged in calculating the amount of annual leave taken. Thus, Saturdays, Sundays and official holidays will not be counted when they fall within a leave period, unless they are considered a normal work day for a particular employee. In these cases the employee's normal "off days" will not be counted during leave periods.

(c) The use of annual leave by regular firefighters working two 24-hour shifts per seven (7) day work cycle shall be charged two and one-half (2 1/2) days of accrued annual leave for each full work day (24 hours) off. Such use must be accounted for in one-half (1/2) day increments only.

(8) Request and authorization of annual leave. All requests and authorization for annual leave shall be made on the forms provided for that purpose by the personnel office. The supervisor shall ascertain that the employee has sufficient accrued leave to cover the requested period and may then approve the leave. Upon the employee's return to work, the leave form is to be brought to the personnel office for completion and posting of the leave data. Subsequently, the original (white) copy is removed from the leave book; posted to the employee's leave records, and filed in his or her personnel file. The pink copy is removed and given to the employee, and the yellow copy remains in the department's leave book. Department or activity supervisor's request for leave shall be approved by the mayor. (1978 Code, § 1-808, as amended by Ord. #359, Feb. 1995)

4-209. Sick leave policy. A sick leave program is provided as privilege but not a right of the town's employees. Abuse of the sick leave system can have a detrimental effect on the program.

(1) Eligibility to accrue annual sick leave.

(a) All regular full-time employees shall be authorized sick leave at the rate of one (1) day sick leave per calendar month.

(b) Part-time, seasonal or temporary employees are not authorized sick leave; however, in exceptional cases they may, on an individual basis, be granted minimal time-off with pay if approved by the mayor.

(c) Probationary employees do not accrue sick leave during their probationary period; however, when such employment becomes regular, full-time employment their annual sick leave shall be computed retroactively to their initial date of employment.

(2) Accrual of annual sick leave. Earned days of annual sick leave shall be computed monthly, at the end of the earned month.

(3) Maximum accumulation of annual sick leave. There will be no limit on the number of days of sick leave an employee may accrue.

(4) Payment of sick leave upon retirement. A regular, full-time official or employee may use a maximum of 150 days of accrued annual sick leave for pay purposes upon approved retirement only, either at age 65 or by disability. The exchange rate for pay purposes shall be one (1) day's pay for two (2) days of accrued sick leave, not to exceed 75 days for payment. Withholding tax and social security, plus other payroll deductions or any refunds due the town from prior payments shall be applied to these payments.

(5) Annual sick leave may not be advanced. Annual sick leave may not be granted in advance of its being earned.

(6) Use of sick leave. Eligible employees may be granted the use of annual sick leave for the following purposes:

(a) Personal illness.

(b) Disability due to accident.

(c) Exposure to contagious disease.

(d) Maternity - pre and post natal.

(e) Medical or dental appointments requiring an absence from work.

(f) The verifiable illness of one of the following relative of the employee:

(i) Spouse;

(ii) Child;

(iii) Parents, foster parents or parents-in-law.

(7) Application, approval and accounting for sick leave. The request for, granting of, and accounting for sick leave shall be in the same manner as proscribed for annual leave in § 4-208(6),(7), and (8), above.

(8) Sick leave charged as annual or special leave. In applicable circumstances, where the employee has no accrued sick leave, such absence may be charged to annual leave if available. If neither sick or annual leave is available, such absence may be charged to special leave (leave without pay).

(9) Documentation required for sick leave. Any employee using more than three (3) consecutive days of sick leave may be required to provide a certification of the medical necessity for their absence from a medical doctor or other competent medical professional. In any case where it is evident that an employee is abusing his or her sick leave privilege, such as a consistent pattern of using sick leave on Fridays and/or Mondays, the department supervisor shall have the right and duty to require such employee to provide suitable documented evidence of their illness or injury. Further, in such cases, the mayor shall have the right to suspend and/or revoke their sick leave privileges after having duly counselled the employee of the consequences of his or her abuse of sick leave privileges. A medical doctor's certificate shall be required in all cases of sick leave for pre-natal or post-natal care, setting forth the required period of absence.

(10) Sick leave bank. The sick leave bank allows employees facing a "medical emergency" to benefit from other employees voluntarily depositing leave time into the bank. Donations of time into the leave bank are strictly voluntary and shall be made on an annual basis. The balance of time for the bank shall be reviewed by the review committee on July 1st each year to determine if additional days are required for the current fiscal year. The following guidelines shall be used to establish and maintain the sick leave bank that shall become effective with the passage of this section.

(a) Employees wishing to participate in the sick leave bank shall make an initial donation of a minimum of twenty-four (24) hours sick leave to the bank upon joining and a donation of eight (8) hours sick leave shall be contributed by each participating employee each fiscal year thereafter if determined necessary by the review committee. Upon the donation of the hours to the sick leave bank, the time is pooled with other hours donated into the bank and at the time of the donation the employee shall relinquish all contractual rights as to the time that has been donated.

(b) Participating employees must have a minimum of one year of service with the town to donate time into the bank.

(c) Only bank members shall be eligible to apply for withdrawals from the sick bank. Employees shall not be eligible to apply for an allocation until thirty (30) days after his/her initial donation.

(d) Employees shall not be eligible to apply for withdrawals until he/she has exhausted all of their own sick and annual leave.

(e) The maximum withdrawal to be made from the leave bank is 160 hours per fiscal year per employee.

(f) Written request with supporting doctor's statement and further documentation as deemed necessary shall be reviewed for approval or denial by the review committee composed of the director of public safety, director of public works, director of The Dixie, and the town

recorder. Applications may be denied due to incomplete or inaccurate information or lack of supporting doctor's statement.

(g) Amounts paid by the employer under the plan must be treated as wages for employment tax purposes and are included in the gross income of the employee receiving such leave. An employee making the withdrawal shall be paid at the employee's normal rate of compensation.

(h) All requests for withdrawals from eligible employees shall be submitted to the review committee in writing. The requesting employee must have exhausted all of their annual and sick leave prior to any withdrawal from the sick leave bank.

(i) Approval for the request shall be based on the following conditions: a serious medical condition of the employee or the employee's child, parent, spouse, legal dependent for whom the employee is the primary caregiver, or person living in the employee's household for whom the employee is the primary caregiver. A serious medical condition shall be defined as an illness, injury, impairment, or physical or mental condition involving either inpatient care or continuing treatment by a health care provider. Examples of serious health conditions include but are not limited to heart attacks, heart conditions requiring heart bypass or valve operations, most cancers, back conditions requiring extensive therapy or surgical procedures, strokes, severe respiratory conditions, spinal injuries, severe arthritis, etc. (1978 Code, § 1-809, as amended by Ord. #428, April 25, 2000, and Ord. #508, March 2008)

4-210. Bereavement leave policy. A regular, full-time employee may be granted up to three (3) days of bereavement leave upon the death of a spouse, child, siblings, parent, foster parent or parent-in-law. This is a non-accruable, non-chargeable leave with pay. (1978 Code, § 1-810)

4-211. Military leave policy. Employees of the Town of Huntingdon shall be granted military leave for periods of active duty in conformance with Tennessee Code Annotated, § 8-33-101 et. seq., and U. S. Code Title 38, 2021 et seq., and 2024 (2)(g). (1978 Code, § 1-811)

4-212. Special leave policy. Special leave is an authorized leave of absence without pay. It may be granted to an eligible employee upon proper application and review and approval of the mayor for a period not to exceed one (1) calendar year.

(1) Eligible employees. All regular full-time employees are eligible to apply for special leave.

(2) Ineligible employees. All probationary, part-time, seasonal or temporary employees are not eligible to apply for special leave.

(3) Limitations. Special leave may only be used after any accrued annual or sick leave for which the employee may otherwise be eligible has been exhausted.

(4) Authorized purposes. Typical purposes for which special leave may be granted are:

(a) Extended illness which cannot be covered by annual or sick leave days.

(b) Inability to perform duty due to service-connected injury or temporary disability and while drawing workers compensation.

(c) Personal education or training.

(d) For rest/recreational purposes in extenuating circumstances.

(5) Accounting for special leave. As special leave is a leave of absence without pay, and authorized only when the employee has no accumulated annual or sick leave, all calendar days are counted in the one (1) calendar year limitation of the special leave. (1978 Code, § 1-812)

4-213. Terminal leave policy. (1) Annual leave. Upon separation from employment by the town other than for reasons of gross misconduct, an employee is eligible to utilize his or her accumulated annual leave as a terminal leave up to a maximum of forty-two (42) days - the maximum which could be accumulated as of June 30th.

(2) Sick leave. Accumulated sick leave may be used for terminal leave purposes upon approved retirement, by either age or disability, at the exchange rate of one (1) day terminal leave for two (2) days of sick leave with a maximum of 75 days of terminal leave. (1978 Code, § 1-813)

4-214. Family and medical leave policy. (1) Purpose. To provide a family and medical leave policy for the Town of Huntingdon in compliance with U. S. Public Law 103-3, titled Family and Medical Leave Act of 1993 (FMLA).

(2) Definitions. (a) Eligible employee: Eligible employees are those who have been employed for at least 12 months, and who have provided at least 1,250 hours of service during the 12 months before leave is requested.

(b) Parent: Mother or father of an employee, or an adult who had day-to-day responsibility for caring for the employee during his or her childhood years in place of the natural parents.

(c) Son/daughter/child: Biological, adopted, or foster child, legal ward, or child of a person standing in loco parentis, who is under the age of 18 years. Children who are 18 years or older qualify, if he or she is incapable of self care because of mental or physical disability.

(d) Serious health condition: An illness, injury, impairment, or physical or mental condition involving either inpatient care or continuing treatment by a health care provider. Examples of serious health conditions include but are not limited to heart attacks, heart conditions

requiring heart bypass or valve operations, most cancers, back conditions requiring extensive therapy or surgical procedures, strokes, severe respiratory conditions, spinal injuries, severe arthritis, etc.

(3) Leave provisions. (a) An eligible employee may take up to 12 weeks of unpaid leave [See sub-section (4) below] in a 12 month period for the birth of a child or the placement of a child for adoption or foster care. Leave may also be taken to care for a child, spouse, or a parent who has a serious health condition.

(b) The right to take leave applies equally to male and female employees who are eligible.

(c) Unpaid leave [See sub-section (4) below] for the purposes of care for a newborn child or a newly placed adopted or foster care child must be taken before the end of the first 12 months following the date of birth or placement.

(d) An expectant mother may take unpaid medical leave [See sub-section (4) below] upon the birth of the child, or prior to the birth of her child for necessary medical care and if her condition renders her unable to work. Similarly, for adoption or foster care, leave may be taken upon the placement of the child or leave may begin prior to the placement if absence from work is required for the placement to proceed.

(e) An employee may take unpaid leave [See sub-section(4) below] to care for a parent or spouse of any age who, because of a serious mental or physical condition, is in the hospital or other health care facility. An employee may also take leave to care for a spouse or parent of any age who is unable to care for his or her own basic hygiene, nutritional needs, or safety. Examples include a parent or spouse whose daily living activities are impaired by such conditions as Alzheimer's disease, stroke, or who is recovering from a major surgery, or who is in the final stages of terminal illness.

(f) Eligible employees, who are unable to perform the functions of the position held because of a serious health condition, may request up to 12 weeks unpaid leave [See sub-section(4) below]. The term serious health condition is intended to cover conditions or illnesses that affect an employee's health to the extent that he or she must be absent from work on a recurring basis or for more than a few days for treatment or recovery.

(g) Employees requesting medical leave due to their own illness or injury shall use any balance of accrued sick leave and accrued annual leave prior to unpaid leave beginning. The combination of sick leave, annual leave, floating holidays, and unpaid leave shall not exceed 12 weeks.

(h) During periods of unpaid leave, an employee will not accrue any additional seniority, annual or sick leave, or similar employment benefits.

(i) If spouses are employed by the town and wish to take leave for the care of a new child or a sick parent, their aggregate leave is limited to 12 weeks. For example, if the father takes 8 weeks of leave to care for a child, the mother would be entitled to 4 weeks leave, for a total of 12 weeks of leave.

(4) Required use of annual or sick leave. (a) In all cases where the employee requests the use of unpaid family leave, he or she shall be required to use all accrued annual leave prior to beginning unpaid family leave.

(b) In those cases where the employee requests family leave for care of a family member for whom the employee would normally be authorized to use sick leave pursuant to § 4-209(6), below, such employee shall be required to use all accrued sick leave prior to beginning unpaid family leave.

(5) Notification and scheduling. (a) An eligible employee must provide the town at least 30 days advance notice of the need for family leave for birth adoption or planned medical treatment, when the need for leave is foreseeable. This 30-day advance notice is not required in cases of medical emergency or other unforeseen events, such as premature birth, or sudden changes in a patient's condition that require a change in the scheduled medical treatment.

(b) Parents who are awaiting the adoption of a child and are given little notice of the availability of the child may also be exempt from this 30-day notice.

(6) Certification. (a) The town reserves the right to verify an employee's request for family/medical leave through any appropriate means.

(b) If an employee requests leave because of a serious health condition, or to care for an eligible family member with a serious health condition, the town requires that the request be supported by certification issued by the health care provider of the eligible employee or the family member, as appropriate. If the town has reason to question the original certification, the town may, at its expense, require a second opinion from a different health care provider chosen by the town, who may not be employed by the town on a regular basis. If a resolution of the conflict cannot be obtained by a second opinion, a third opinion may be obtained from another provider and that opinion will be final and binding.

(c) This certification must contain the date on which the serious health condition began, its probable duration, and appropriate medical facts within the knowledge of the health care provider regarding the condition. The certification must also state the employee's need to care for the son, daughter, spouse or parent and must include an estimate of the amount of time that the employee is needed to care for the family member.

(d) Medical certifications given will be treated as confidential and privileged information.

(e) An employee will be required to report weekly on each Friday, or the prior work day should Friday fall on an approved town holiday, to the town the status and the intention of the employee to return to work.

(f) Employees who have taken unpaid leave under this policy must furnish the town with a medical certification from the employee's health care provider that the employee is able to resume work before his or her return is approved.

(7) Maintenance of health and COBRA benefits during unpaid leave.

(a) The town will maintain health insurance benefits paid by the town for the employee during periods of unpaid leave without interruption. Any payment for optional family coverages, premiums, or other payroll deductible insurance policies, must be paid in advance by the employee or the benefits may not be continued.

(b) The town has the right to recover from the employee all health insurance premiums paid during the unpaid leave period if the employee fails to return to work after leave. Employees who fail to return to work because they are unable to perform the functions of their job due of their own serious health condition or because of the continued necessity of caring for a seriously ill family member may be exempt from the recapture provision, upon review of the individual circumstances and approval of same by the town council.

(c) Leave taken under this policy does not constitute a qualifying event that entitles an employee to COBRA insurance coverage. However, the qualifying event triggering COBRA coverage may occur when it becomes clearly known that an employee will not be returning to work, and therefore ceases to be entitled to leave under this policy.

(8) Reduced and intermittent leave. (a) Leave taken under this policy can be taken intermittently or on a reduced leave schedule when medically necessary as certified by the health care provider. Intermittent or reduced leave schedules for routine care of a new child can be taken only with approval of the town. The schedule must be mutually agreed upon by the employee and the town.

(b) Employees on intermittent or reduced leave schedules may be temporarily transferred by the town to an equivalent alternate position that may better accommodate the intermittent or reduced leave schedule.

(c) Intermittent or reduced leave may be spread over a period of time longer than 12 weeks, but will not exceed the equivalent of 12 workweeks total leave in a one fiscal year period.

(9) Restoration. (a) Employees who are granted leave under this policy will be reinstated to the same or equivalent position as that held prior to the commencement of their leave.

(b) Certain highly compensated key employees, who are salaried and among the 10% highest paid employees, may be denied restoration if:

(i) The town shows that such denial is necessary to prevent "substantial and grievous economic injury" to the town's operations; if

(ii) The town notifies the employee that it intends to deny restoration on such basis at the time the town determines that such injury would occur; if

(iii) After the leave has commenced the employee elects not to return to work within a reasonable period of time after receiving such notice, and if

(iv) Any denial of right to restoration has been approved by a majority vote of the membership of the town council in regular or called session.

(10) The 12-month FMLA period. The 12-month period during which an employee is entitled to 12 workweeks of FMLA leave shall coincide with the town's fiscal year, which begins July 1st each year.

(11) Effective date. This policy shall be in full force and effect from and after August 5th, 1993. (1978 Code, § 1-814)

4-215. Employee absence for jury duty. It is recognized that all citizens have an obligation to perform jury duty when called and selected. The policy of the Town of Huntingdon shall be to encourage its employees to discharge this civic duty whenever possible. All employees of the town who are absent from their work place to attend to bona-fide jury duties may be paid at their normal salary or wage rates for hours they are absent from their work places, unless they elect to use their annual leave days; however, all compensation received by such employee shall be turned over to the town and paid into the general fund of the town unless the employee is on annual leave. (1978 Code, § 1-815)

4-216. Employee group insurance plan. The Town of Huntingdon currently provides eligible employees a group medical and life insurance plan without cost to the employee.

(1) Eligible employees. All regular full-time employees who work at least thirty (30) hours per work week for the town are eligible.

(2) Ineligible employees. All probationary, part-time, seasonal or temporary employees are ineligible.

(3) Dependent's benefits. The employee's eligible dependents will become automatically insured for dependent's medical benefits authorized in the

plan when the employee becomes eligible himself unless the employee states in writing, on the proscribed form, that he or she does not desire the coverage for dependents. The premiums for dependent coverage are paid by the employee through pay-roll deductions.

(4) Insurance plan handbook. Each employee upon his initial enrollment into the plan will be furnished a handbook on the town's group insurance plan which provides detailed information. All employees are encouraged to read this handbook carefully. The requirements imposed by the insurance carrier must be adhered to in order for the employee to receive full claim payments. All questions should be referred to the personnel office.

(5) Filing of insurance claims. It is the responsibility of the employee to notify the insurance office of the medical facility where he or she is receiving covered treatment of his or her medical coverage and present the employee identification card at the time of treatment or admission. It is the responsibility of the employee and the medical facility to file for all insurance claims. The personnel office does not file claims for the employees.

(6) Continuance of medical coverage. Under certain circumstances a terminated employee, or a covered divorced spouse, or a covered dependent may continue the employees or dependent coverage beyond the termination date for various periods up to 36 months by signing certain agreement forms and paying the required premiums. Effected employees should inquire at the personnel office not later than 90 days prior to anticipated termination for more detailed information.

(7) Schedule of benefits. Complete details of benefits available under the group plan, including major medical coverage, are contained in the employee medical plan handbook. (1978 Code, § 1-816)

4-217. Employee workers compensation insurance plan.

(1) Coverage. All employees, regular, part-time, probational, seasonal or temporary, of the Town of Huntingdon, including volunteer firefighters while on active service, are provided coverage for sickness or injury incurred as a result of, or during service for the town, as provided for by the appropriate laws governing workers compensation as established by the State of Tennessee.

(2) Reporting of injuries. All work related injuries should be reported to the personnel office within 24 hours of injury, but in no case later than 30 days, and the proper OSHA report forms completed in detail.

(3) Reporting of sickness. All work related sickness should be reported to the personnel office within 24 hours of the employee becoming aware of the possibility of the sickness being work related, but in no event more than 30 days. If the employee is physically unable to render this report, the next of kin or other responsible person should report the sickness.

(4) Claims. All claims of any nature concerning workers compensation will be filed at the personnel office. A delay in the reporting of the work related injury or sickness could result in a loss of benefits to the employee concerned.

(5) Dual payments. As workers compensation is made available to the employees to preclude a loss of pay while they are unable to work due to a work related injury or illness, it is not intended that the employee receive workers compensation and also his full salary or wages from the town. An employee who is absent from work due to work related injury or illness; is drawing workers compensation, and has accrued annual or sick leave, will be permitted to use such leave for pay purposes at the rate of one day annual or sick leave for every 3 days of absence while on workers compensation. (1978 Code, § 1-817)

4-218. Employee retirement plan. The Town of Huntingdon provides its eligible employees a purchase money pension plan without cost to the employee. A copy of the retirement plan manual is on file in the personnel office and all employees are encouraged to ask questions concerning their participation.

(1) Eligible employees. All regular full-time employees are eligible to enter into the employee's retirement plan after attaining the age of 24 years, and completion of thirty (30) months of continuous qualifying service.

(2) Vested interest. Upon becoming a participant in the retirement plan, the participant's interest in the employer contributions account shall be subject to the percentage indicated in the following schedule:

<u>Years of Vesting Service</u>	<u>Portion of Employer Contributions Account Vested in the Participant</u>
Less than 5 years	0%
5 years but less than 6	25%
6 years but less than 7	30%
7 years but less than 8	35%
8 years but less than 9	40%
9 years but less than 10	45%
10 years but less than 11	50%
11 years but less than 12	60%
12 years but less than 13	70%
13 years but less than 14	80%
14 years but less than 15	90%
15 years or more	100%

100% vested interest can also be attained prior to fifteen (15) years of vesting service by reaching age 65, by disability or by death (see plan.)

(3) Voluntary contributions. A participating employee may also make voluntary contributions to his or her retirement account in the plan through authorized payroll deductions. All such contributions are the sole property of

the employee and are accounted separately from the town's contribution to the plan.

(4) Withdrawals of entitlements. Due to the complexity of the eligibility, vesting, and procedures, this subject will not be covered in this regulation; however, employees should be referred to the retirement plan manual in the personnel office. (1978 Code, § 1-818)

4-219. Counseling and evaluation. (1) Counselling. (a) The most effective means of maintaining high levels of employee efficiency and morale is for the supervisor to be constant in his supervision and observation of the employee's performance of duty and his work habits; to allow an employee to exercise initiative and to apply the principles of counselling constructively, fairly and impartially. Counselling not only means to provide the proper instruction and direction to an employee who is performing marginally or unsatisfactorily, but also to offer words of encouragement and praise for work well done. In those cases where an employee has performed unusually well in a particularly difficult assignment, an appropriate letter of appreciation or commendation may be in order. How well an individual performs in his or her job is directly related to the manner as well as the amount of supervision afforded the employee. Therefore, the burden for assuring the town the best possible employee work force will fall on the supervisor concerned.

(b) The areas with which the supervisor will be most concerned is that of an employee who is not performing his or her job satisfactorily, or who has developed undesirable work habits and/or attitudes. It is again emphasized that such employees must be counselled promptly and adequately. On the first occasion the formal counselling may be verbal and the employee given a specific period of time in which to correct his or her deficiencies. Should the employee refuse to respond, all subsequent counselling shall make use of the "Employee Evaluation Report" or "Employee Warning" forms which are available from the personnel office. These reports will be read and acknowledged by the employee and forwarded to the personnel office for review by the mayor. As proof of constructive counselling is critical to the termination of an employee for cause, the importance of the proper use of these forms cannot be over-emphasized.

(c) The supervisor must be as alert to counsel an employee for performing unusually well, as he is to counsel critically.

(2) Performance evaluation. The initial employee performance evaluation form shall be completed by the department supervisor at the end of the initial probationary employment period and forwarded to the personnel officer with a recommendation for regular employment, or termination of same, stating the reasons therefor. Thereafter, each employee shall receive a performance evaluation and counselling on the anniversary date of his or her

employment. Such evaluations must be made fairly and objectively without personalities becoming involved. "Employee Performance Evaluation Report" forms will be made available from the personnel office.

(3) Performance evaluation. The department supervisor shall render an annual performance evaluation on each employee upon the anniversary of his or her employment; when a change in the employee's job classification or compensation is recommended, or when requested by the mayor or the personnel officer.

(4) Letters of appreciation. Letters of appreciation or commendation from whatever source shall be brought to the attention of the mayor and town council and filed in the employee's personnel file. (1978 Code, § 1-819)

4-220. Suspension and termination. Pursuant to § 3.08 of the town's charter, the mayor has the authority to make demotions, suspensions and removal of employees for reasonable cause; however, before removal or suspension, an employee shall be given a written notice, by certified U.S. mail or personally delivered by an official of the town, of intention to suspend or terminate him or her, containing a clear statement of the grounds for such proposed actions and notification that he or she may appeal to the town's Employee Appeal Board by filing, within ten (10) days, with the town recorder written notice of his or her intention to do so. [The "Employee Warning Report" form as provided by the personnel office may be used for this purpose.]

(1) Suspension. (a) Employees who fail to perform their duties at a satisfactory level, and who have received counselling and a "Employee Warning Report" issued thereto, and who have failed to respond to such counselling within a reasonable and stated period, shall be subject to suspension without pay for a period not to exceed ten (10) working days on the first offense, or

(b) Employees who are repeatedly late in reporting for work shall, after the proper counselling and warning, be suspended without pay for a period not to exceed ten (10) days on the first offense, or

(c) Employees who are insubordinate or refuse or are reluctant to follow instructions shall, after the proper counselling and warning, be suspended without pay for a period not to exceed ten (10) days on the first offense, or

(d) Employees who, by their actions or inactions, adversely affect the performance of his duties, or cause embarrassment to the town or otherwise bring discredit to his department and the town may be, after the proper counselling and warning, suspended without pay for a period not to exceed ten (10) days on the first offense.

(e) Employees who have served one (1) period of suspension (for not more than ten [10] days) may be suspended, after proper counselling and warning, without pay for the second time for the same general offense for not more than thirty (30) working days.

(f) Supervisors recommending such suspension shall complete and forward to the mayor for his review and approval the appropriate "Employee Warning Report" along with any other pertinent counselling reports. The "Employee Warning Report" must be completed in detail. The employee is required to sign this form.

(2) Termination. (a) Voluntary. (i) Any employee of the town who desired to terminate his employment with the town shall provide a minimum of three (3) calendar weeks notification of his or her intent to terminate, in writing, through his supervisor to the personnel office. This requirement will allow a period of time to secure a replacement for the employee and to process paperwork.

(ii) The department supervisor shall be responsible for completion of the "Termination Report" form, which shall be provided by the personnel office. Upon completion and review, this form shall become a permanent part of the employee's personnel file.

(iii) Any employee who terminates his or her employment without the required prior notice may forfeit all rights and claims to accrued benefits or to re-employment by the town.

(iv) Any employee who intends to terminate his employment through retirement shall indicate his intent in writing to the personnel office not later than ninety (90) days prior to the anticipated retirement date to allow time for the administrator of the retirement plan to obtain the necessary forms and file on behalf of the employee. Employees who fail to do so will risk a delay in the receipt of their retirement benefits.

(b) Involuntary termination - FOR CAUSE. (i) Any employee who, after the appropriate counselling, warnings and/or suspension, fails to perform his or her duties in an acceptable manner, or to correct his or her unacceptable actions or behavior, shall be subject to termination for cause.

(ii) Any employee who is guilty of impropriety or gross misconduct which will reflect unfavorably on the town and thereby renders his or her continued service in the town's employ unacceptable, shall be subject to immediate termination for cause.

(iii) Action for termination may be initiated by the supervisor, the personnel officer or the mayor, as may be appropriate, who shall be responsible for completion of the "Termination Report" and any required documentation which will be forwarded to the mayor for review and approval.

(iv) Any employee who is involuntarily terminated for due cause or gross misconduct is subject to forfeiture of all rights to benefits which may have accrued to him or her, including

unemployment compensation, but excluding any vested interest in the town pension plan which the employee may have.

(c) Involuntary termination - NOT FOR CAUSE. (i) In those cases where a regular full-time employee who is performing satisfactorily must be released from his employment by the town due to circumstances beyond his control, i.e., elimination of the position, budgetary limitations, reductions-in-force, etc., such employee shall retain his or her full rights to all benefits which may have accrued to him or her, and further, he or she shall be eligible for re-hire without loss of continuous service benefits if an appropriate vacancy occurs within one (1) year of the date of such termination. Such employee will be given preferred consideration before other non-prior service persons applying for such vacancy.

(ii) In these cases, the personnel office will initiate the appropriate "Termination Notice" which shall be forwarded to the department concerned for further action.

(d) Retirement. Eligible officials or employees who intend retirement, either by age or disability, shall provide a written notice to the personnel officer of their intent to retire not later than 60 days prior to their retirement date. (1978 Code, § 1-820)

4-221. Council/employee relations committee. Immediately upon passage of this amendment, and each subsequent municipal election, the mayor shall appoint, subject to the approval of the majority of the council, a standing council/employee relations committee, which shall be composed of three (3) serving councilmembers, whose appointments shall run concurrently with their terms of office, and the personnel officer, as a member ex officio. This committee is to meet with department supervisors and/or employees on a regular basis for the purpose of exchange of information and ideas to enhance the efficiency of the town's operations; to deal with any labor relations problems which may arise, and to keep the council informed. (1978 Code, § 1-821)

4-222. Employee appeal board. (1) Right of appeal. Pursuant to § 3.08 of the town's charter, any employee who has been informed of a demotion, suspension or termination action against him or her shall have the right to appeal the proposed actions to the Employee Appeal Board of the Town of Huntingdon by filing with the recorder within ten (10) days of his or her being formally notified of a proposed suspension or termination, a written statement of his or her intent to do so.

(a) Upon the filing of such an appeal, the recorder shall duly notify the employee appeal board, which shall set a time and place for a public hearing on the matter, to be held within 20 days thereafter. Four votes of the membership of the board shall be required to override the

demotion, suspension or termination, and the actions of the board shall be a final determination of the matter.

(b) Subject to the hearing of such appeals, the employee may, if not endangering the public welfare by doing so, remain on their regular job. Should it not be in the best interest of the town for the employee to remain on the work site during the appeal process, he or she may be placed on "administrative leave" with full pay and benefits pending the resolution of the appeal.

(2) Composition of the board. The duly elected and serving mayor and councilmembers of the Town of Huntingdon shall function as the "Employee Appeal Board" pursuant to § 3.08 of the town charter, and shall hear appeals in either regular or called sessions. The findings of the employee appeal board shall be final and are not subject to review by or appeal to any other agency, organization or judicial body. (1978 Code, § 1-822)

CHAPTER 3

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION

- 4-301. Title.
- 4-302. Purpose.
- 4-303. Coverage.
- 4-304. Standards authorized.
- 4-305. Variances from standards authorized.
- 4-306. Administration of plan.
- 4-307. Funding the program.

4-301. Title. This chapter shall be known as the Occupational Safety and Health Program of the Town of Huntingdon, and it is our intention that the program and its provisions shall be as effective as the program and its provisions under the Tennessee Occupational Safety and Health Act of 1972. (1978 Code, § 1-901, as replaced by Ord. #466, Aug. 2003)

4-302. Purpose. The Town Council of Huntingdon, in electing to update their established plan will maintain an effective occupational safety and health program for its employees and shall:

- (1) Provide a safe and healthful place and condition of employment that includes:
 - (a) Top management commitment and employee involvement;
 - (b) Continually analyze the worksite to identify all hazards and potential hazards;
 - (c) Develop and maintain methods for preventing or controlling existing or potential hazards;
 - (d) Train department heads, supervisors and employees to understand and deal with workplace hazards.
- (2) Acquire, maintain and require the use of safety equipment, personal protective equipment and devices reasonably necessary to protect employees.
- (3) Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development of the State of Tennessee, his designated representatives, or persons within the Tennessee Department of Labor Workforce Development to whom such responsibilities have been delegated, adequate records for all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
- (4) Consult with the State Commissioner of Labor and Workforce Development with regard to the adequacy of the form and content of the records.
- (5) Consult with the State Commissioner of Labor and Workforce Development, as appropriate, regarding safety and health problems which are

considered to be unusual or peculiar and are such that they cannot be achieved under a standard promulgated by the State of Tennessee.

(6) Provide reasonable opportunity for the participation of employees in the effectuation of the objectives of this program, including the opportunity to make anonymous complaints about conditions or practices injurious to employee safety and health.

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program. (1978 Code, § 1-902, as amended by Ord. #360, Feb. 1995, and replaced by Ord. #466, Aug. 2003)

4-303. Coverage. The provisions of the occupational safety and health program plan for the employees of the Town of Huntingdon shall apply to all employees of each department of the Town of Huntingdon whether full-time or part-time, permanent or seasonal. (1978 Code, § 1-903, as replaced by Ord. #466, Aug. 2003)

4-304. Standards authorized. The occupational safety and health standards adopted by the Town of Huntingdon are the same, as but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with Section 6 of the Tennessee Occupational Safety and Health Act of 1972 (Tennessee Code Annotated, title 50, chapter 3). (1978 Code, § 1-904, as replaced by Ord. #466, Aug. 2003)

4-305. Variances from standards authorized. The Town of Huntingdon may, upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor Workforce Development, Occupational Safety, Chapter 0800-1-1, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, the director of public safety shall notify or serve notice to employees, their designated representative, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board as designated by the department supervisor shall be deemed sufficient notice to employees. (as added by Ord. #466, Aug. 2003)

4-306. Administration of plan. For the purposes of this chapter, the Director of Public Safety, Town of Huntingdon, is designated as the director of occupational safety and health to perform duties and to exercise powers assigned so as to plan, develop, and administer the Occupational Safety and Health Plan of the Town of Huntingdon. The director shall develop a plan of

operation for the program and said plan shall become part of this chapter when it satisfies all applicable sections of the Tennessee Occupational Safety and Health Act of 1972 and Part IV of the Tennessee Occupational Safety and Health Plan. (as added by Ord. #466, Aug. 2003)

4-307. Funding the program. Sufficient funds for administering and staffing the program pursuant to this chapter shall be made available as authorized by the Town Council of Huntingdon. (as added by Ord. #466, Aug. 2003)

CHAPTER 4

INFECTIOUS DISEASE CONTROL PROGRAM

SECTION

- 4-401. References.
- 4-402. Adoption of policy.
- 4-403. Designation of officials.
- 4-404. Duties and responsibilities.
- 4-405. Funding

4-401. References. (1) Section 1910-1030, Title 29, Code of Federal Regulations (29 CFR 1910), which regulates the infectious disease right-to-know provisions of the Occupational Safety and Health Act (OSHA), which became effective March 6th, 1992.

(2) Infectious Disease Control Policy of the Town of Huntingdon, Tennessee, dated May 5th, 1992, as filed in the Office of the Town Recorder in the Huntingdon Municipal Building. (1978 Code, § 1-2001)

4-402. Adoption of policy. The "Infectious Disease Control Policy" as reviewed and approved by the Mayor of the Town of Huntingdon on May 5th, 1992, and attested by the town recorder, as referenced in § 4-401(2), above, shall be and is hereby approved as the official infectious disease control policy and procedure for said town. This authorization shall include all future amendments thereto as may be required by changes in federal and/or state laws and/or regulations. (1978 Code, § 1-2002)

4-403. Designation of officials. For the purpose of implementating and maintaining the infectious disease control program of the Town of Huntingdon, Tennessee, the Training Officer for the Huntingdon Police Department (presently Captain James D. Geurin), is hereby designated as the "Infectious Disease Control Coordinator (IDCC)" in and for the Town of Huntingdon. The IDCC shall be responsible to the Mayor, Town of Huntingdon, for the performance of his duties. (1978 Code, § 1-2003)

4-404. Duties and responsibilities. The duties and responsibilities of the IDCC shall include, but not be limited to, the following activities:

(1) Maintaining in a current state the written program for infectious disease control for the Town of Huntingdon.

(2) Making the initial exposure determination for all positions of employment which have a possible exposure to blood or potentially infectious material (at-risk positions), including all regular, seasonal, part-time and/or on-call positions and volunteer firefighters.

(3) Providing for the initial training of all present employees on the effects of infectious diseases and provide the initial series of free HBV vaccinations to designated at-risk employees.

(4) Training all newly hired employees of the effects of infectious diseases and provide free HBV vaccination to at-risk employees prior to said employee beginning work.

(5) Maintaining annual refresher training of all employees as required by the town's infectious disease control program.

(6) Establishing a follow-up procedure for employees who have an exposure incident.

(7) Maintaining annual training records necessary to identify the name and qualifications of the training personnel and document the attendance of all employees.

(8) Maintaining all records relative to the offer and/or provision of the Hepatitis B vaccinations to all at-risk employees, as required by the applicable OSHA regulations [29 CFR 1910.1030(h)], to include declination statements from employees who refuse the vaccinations.

(9) Establishing and maintaining an OSHA 200 log for all exposure incidents.

(10) Insuring that the supervisors of all departments or activities of the town provide adequate individual personal protective clothing and equipment to each employee, and that each public safety vehicle is adequately supplied with "on-board" equipment.

(11) Insuring that each department or activity post a copy of the town's infectious disease control policy on an employee bulletin board, and that the supervisor of said department or activity insure, by questioning of his or her employees, that all employees are aware of the location of the policy and its provisions as they pertain to that employee.

(12) Making a continuing review of the town's infectious disease control policy and procedures, and making recommendations to the mayor for any needed revisions.

(13) Promptly advising the mayor of any incident of exposure or possible exposure to infectious disease by any employee of the town.

(14) Performing all other functions necessary for the maintenance of a successful and effective infectious disease control program for the town. (1978 Code, § 1-2004)

4-405. Funding. It shall be the policy of the Town of Huntingdon to provide all required immunizations to its employees without cost to them. The funds for the initial and continuing immunization program will be allocated in the various departmental line item budgets. (1978 Code, § 1-2005)

CHAPTER 5

AMERICANS WITH DISABILITIES ACT PROGRAM

SECTION

- 4-501. References.
- 4-502. Statement of intent.
- 4-503. Administration.
- 4-504. Employment by local government.
- 4-505. Access to public services.
- 4-506. Grievance procedure.
- 4-507. Disabled resident access committee.
- 4-508. Dissemination of policy.

4-501. References. (1) 29 C.F.R. Part 1630 - Equal Employment Opportunity for Individuals with Disabilities.

(2) 29 C.F.R. Parts 1602 and 1627 - Recordkeeping and Reporting Under Title VII of the Civil Rights Act of 1964 and the Americans With Disabilities Act of 1990.

(3) 28 C.F.R. Part 35 - Nondiscrimination on the Basis of Disability in State and Local Government Services.

(4) Tennessee Code Annotated § 8-50-103. Employment of the Handicapped. (1978 Code, § 1-1901)

4-502. Statement of intent. As regards employment, it is the intent of the governing body of the Town of Huntingdon, Tennessee (the "town") to comply with all the relevant and applicable provisions of Title I, "Americans With Disabilities Act of 1990" (the "ADA"). The town will not discriminate against any qualified employee or job applicant with respect to any terms, privileges, or conditions of employment because of a person's physical or mental disability as defined by the ADA. The town will also make reasonable accommodation wherever necessary for all employees or applicants with disabilities, provided that the individual is otherwise qualified to safely perform the duties and assignments connected with the job and provided that any accommodations made do not require significant difficulty or expense.

As regards access to public programs, services or facilities operated or sponsored by the town, it is the intent of the town to comply with all the applicable provisions of Title II of the Act to insure that no person shall be excluded from participation in or denied the benefits of these activities of the town on the basis of a disability, nor be subjected to discrimination by the town. (1978 Code, § 1-1902)

4-503. Administration. The administrative assistant in the office of the mayor, in addition to her normal duties, is hereby designated as the "ADA

Coordinator" for the Town of Huntingdon, and is the person directly responsible for the development, implementation and monitoring of the town's ADA compliance program, and shall have the complete support of said governing body in the operation of this program. The ADA coordinator will be responsible for the following functions:

(1) Development of policy statements, guidelines, and internal and external communications about the requirements of the ADA and the town's compliance program.

(2) Meeting with officials, supervisors, and employees of the town to discuss any problems or concerns that may arise in accommodating individuals with disabilities to ensure that the program is being followed.

(3) Determining the need for remedial action and designing policies to correct deficiencies in the program.

(4) Serving as liaison between the town and enforcement agencies, persons with disabilities, and organizations representing individuals with disabilities.

(5) Keeping, management informed of the latest developments in hiring and employing persons with disabilities. (1978 Code, § 1-1903, as amended by Ord. #360, Feb. 1995)

4-504. Employment by local government. The town's policy of nondiscrimination applies to all personnel and employments, including hiring, upgrading, transfer, recruitment or recruitment advertising, layoff or termination, compensation of any kind, selection for training and educational programs.

(1) The town's personnel officer will review all personnel procedures to ensure that job applicants and employees with disabilities are given nondiscriminatory consideration when their job qualifications are assessed. All current regulations promulgated by the town shall be amended, as may be required, to bring them into compliance with Title I of the ADA.

(2) The ADA coordinator shall publish such policies and procedures as appropriate to ensure compliance with Title I of the ADA, subject to the review and approval of the mayor.

(3) Applicants and employees are assured that all information regarding a disability shall be kept confidential, in-so-far as the state's laws regarding open public records (the "sunshine" laws) will permit, except that:

(a) Appropriate officials, officers and supervisors may be informed regarding restrictions on the work or duties of disabled employees and any accommodations that have been made.

(b) If the person's condition may require emergency treatment, first aid and safety personnel may be informed.

(c) Government officials investigating compliance with federal laws may be informed.

(4) All employees with responsibilities which may require their having knowledge of another employee's disabilities shall be advised that they are to treat the knowledge with confidentiality.

(5) Any employee or job applicant who believes that he or she has been discriminated against on the basis of disability should immediately bring the problem to the attention of town officials. An employee may bring a complaint to the attention of his or her supervisor, the ADA coordinator, the Equal Employment Opportunity (EEO) coordinator, the personnel officer or the mayor. (1978 Code, § 1-1904)

4-505. Access to public services. The town shall, through its "self-evaluation plan", survey all of its programs, services and facilities to determine which programs, services and/or facilities are normally available to the general public. After this survey is completed it shall be reviewed by the responsible officials of the town and the "Disabled Resident Access Committee", as established herein, to insure that no person is denied access to such programs, services and/or facilities based solely on the disability of such person or persons. The ADA coordinator shall be the designated official to coordinate this compliance effort and to investigate complaints. (1978 Code, § 1-1905)

4-506. Grievance procedure. To create a method to handle complaints at the local level without federal intervention, a grievance procedure for the town shall be developed and published by the ADA coordinator to accept and resolve complaints concerning alleged violation of Title II of the ADA, subject to review and approval by the mayor. (1978 Code, § 1-1906)

4-507. Disabled resident access committee. There shall be and is hereby created a committee to be designated as the "Disable Resident Access Committee" for the purpose of hearing complaints, request or suggestions from disabled persons regarding access to and participation in public facilities, services, activities and functions operated or sponsored by the town.

(1) This committee shall be composed of nine (9) or more persons appointed by the town council. The members shall serve indefinite terms, subject to the will of said council. The committee shall be representative of the general population of the town; however, one (1) member shall be a representative of the town council, two (2) shall be disabled persons, two (2) shall be from the religious community, and two (2) from the educational community. The total membership shall include at least two (2) representatives from minorities.

(2) This committee shall hold its initial meeting within 30 days from its initial appointment and thereat elect a chairperson, vice-chairperson and secretary, and adopt such rules and by-laws as may be necessary to provide for the operation of the committee. Thereafter it shall meet in accordance with its own approved agenda.

(3) All meetings of this committee are subject to the "public meeting" laws of the State of Tennessee and the Huntingdon Municipal Code, and must be duly advertised meetings opened to the general public. Minutes of all proceedings of the committee must be maintained, and one (1) copy with all attachments, furnished the town recorder within ten (10) days of the reported meeting. The department of finance and administration shall provide any required administrative support to the committee.

(4) In considering complaints or grievances, the committee shall be generally guided by the town's grievance procedure as published by the ADA coordinator.

(5) The members of this committee shall serve without compensation; however, reimbursement for actual expenses incurred by members thereof in the performance of their official duties on behalf of the committee are authorized, subject to approval by the mayor. (1978 Code, § 1-1907)

4-508. Dissemination of policy. The town will make every effort to ensure that all interested parties are informed about and assist in the implementation of the ADA compliance program. All local recruitment and job referral agencies will be notified of the town's nondiscrimination policy. The town will also notify other entities and organizations with which the town deals about the town's obligation and commitment to comply with the nondiscrimination requirements of the ADA. The ADA coordinator shall issue such policy memorandums as may be required to establish specific procedure for dissemination of information relative to the ADA compliance program, subject to the approval of the mayor. (1978 Code, § 1-1908)

CHAPTER 6

COMPREHENSIVE TRAVEL REGULATIONS

SECTION

- 4-601. Authority.
- 4-602. General.
- 4-603. Official travel authorized.
- 4-604. Lodging expense.
- 4-605. Food expense.
- 4-606. Food expense for official functions.
- 4-607. Miscellaneous expense.
- 4-608. Advance travel payment.
- 4-609. Submission of travel voucher.
- 4-610. Limitation and penalty.

4-601. Authority. These comprehensive travel regulations are promulgated pursuant to § 2.03(b) of the Private Act Charter of the Town of Huntingdon. (1978 Code, § 1-2201)

4-602. General. The purpose of this chapter is to codify the existing comprehensive travel regulations as originally promulgated by Policy Memorandum, Department of Finance and Administration, dated May 1, 1983, and to provide current policy and procedure for the reimbursement of actual and necessary expenses incurred by the mayor, councilmembers, and employees or agents of the Town of Huntingdon incurred in the conduct of their official duties.

The director of finance & administration (DF&A) is authorized to publish such guidelines, travel request forms, travel voucher forms, etc., as may be required to implement the provisions of these regulations, subject to the review of the mayor. (1978 Code, § 1-2202)

4-603. Official travel authorized. Reimbursement for official travel by elected and/or appointed officials and employees of the Town of Huntingdon in conjunction with their official duties is authorized for such purposes as attendance at work-related conferences, workshops, seminars, professional meetings, training, etc., which are beneficial to the operation of the town's government.

(1) All official travel by non-supervisory employees must be previously approved by the department supervisor.

(2) All official travel by supervisory employees or by elected or appointed officials must be previously approved by the mayor.

(3) Approved travel shall be by official government owned vehicles (GOV) whenever possible. The use of privately owned vehicles (POV) for official use shall be limited to those instances where suitable GOV's are not available,

or have been deemed inappropriate by the departmental supervisor or the mayor. (See sub-paragraph (7), below.)

(4) Travel must be by the most direct route possible, and any individual traveling by an indirect route must assume any extra expense incurred thereby.

(5) Where more than one employee is traveling to the same destination for the same purpose (i.e. attendance at a seminar, training workshop, etc.), all such employees shall travel together.

(6) Where an official or employee of the town travels in a GOV belonging to another governmental entity, the town's official or employee is not entitled to travel reimbursement. Such official or employee may share the operating expenses, of such GOV: however, this will be treated as "miscellaneous expense" and not as mileage.

(7) The use of POV's for official purposes must be specifically approved in advance for the official or employee to be eligible for reimbursement for mileage.

(a) Where the use of POVs is for the convenience of the town the travel allowance for such use shall be computed at the rate of fifty-one cents (\$.51) per even mile, and may be claimed only by the owner/operator of POV. Where more than one (1) employee travel together via POV, only the owner/operator shall be eligible for reimbursement.

(b) In those instances where a GOV is available, but the official or employee wishes to use his or her POV for personal convenience, he or she may, subject to the prior approval of the department supervisor or mayor, be reimbursed for such use at the rate of twenty-five and one-half cents (\$.255) per even mile.

(c) All arrival and departure mileage must be recorded on the claim for reimbursement. Vicinity mileage must be reported on a separate line and not included with the point-to-point mileage.

(d) In any instance where the reported mileage claimed appears excessive the DF&A will cause inquiry to be made prior to approval of any reimbursement.

(e) In determining mileage for advance payment of travel allowance, the standard point-to-point mileage as indicated in the current issue of the Rand-McNally atlas shall be used.

(8) Rental cars - Charges for automobile rental shall not be allowable unless specific written authorization is secured in advance from the DF&A or the mayor. Charges for insurance coverages for rental automobiles are not reimbursable expenses.

(9) Taxi fares - If the official or employee travels by common carrier (i.e. bus, airplane, train, etc.) reasonable taxi fares will be allowed for necessary transportation. It is expected that bus or limousine service to and from airports and other terminals will be used when available and practicable. In traveling

between the place of lodging and the meeting or conference site, reasonable taxi fares and tips will be allowed.

(10) Tolls and ferry fees - Reasonable tolls and ferry fees will be allowed when necessary for cost effectiveness.

(11) Parking - reasonable parking charges will be allowed when required in conjunction with meetings, appointments, etc. (1978 Code, § 1-2203, as amended by Ord. #432, Aug. 2000, Ord. #453, March 2002, Ord. #511, Aug. 2008, and Ord. #517, Aug. 2009)

4-604. Lodging expense. Officials and employees are authorized reimbursement for actual expense for over-night lodging while on official travel beyond a sixty (60) mile radius of Huntingdon.

(1) In-route lodging shall be allowed for only one (1) night each way on trips over 500 miles one-way. Travel requiring over two (2) or more days travel time (1,000+ miles) shall normally be by common air carrier.

(2) Officials and employees are expected to be conservative in their choice of lodging. Normally, resort or convention hotels (such as the Opryland Hotel) will only be used when the required meeting or activity is located thereat, and there is no reasonable alternative.

(3) Reimbursement for an initial check-in service fee not to exceed five dollars (\$5.00) will be allowed.

(4) Receipts are required for all claims for reimbursement for lodging related expenses.

(5) Where two (2) or more officials or employees share the same lodging, the reimbursement may be pro-rated between them.

(6) When a spouse or other family member travels and shares lodging with an official or employee on official travel, the official or employee must defray any expense beyond that normally authorized the official or employee themselves. Public funds cannot be used to pay any expenses of such persons.

(7) The DF&A will not normally issue checks directly to the hotel or motel. The official or employee is responsible for arranging his or her own reservations and confirmations. (1978 Code, § 1-2204)

4-605. Food expense. Officials or employees are authorized reimbursement for meals on a per-diem basis while absent from town on official business. The basic per-diem rate shall be twenty six dollars (\$26.00) per day. Fractional days shall be pro-rated as follows:

Breakfast	\$ 6.00
Lunch	\$ 8.00
Dinner	\$12.00

(1) In those instances where the official or employee is required to attend a banquet or other such function as part of their official duties, and the cost of such exceeds the authorized per-diem rate, reimbursement may be authorized on an actual cost basis as substantiated by proper receipts or vouchers.

(a) Where the cost of such banquet or other such function is included in the registration fees for a conference, etc., reimbursement cannot be claimed for per-diem allowance for the same meal.

(2) Reimbursement for meals is on a per-diem basis; therefore, individual receipts are not required.

(3) Payment of per-diem for meals for fractional days of official travel away from Huntingdon shall be based on the following time schedule:

Breakfast Departure must be prior to 6:00 A.M.

Lunch Must be absent between 11:00 A.M. & 1:30 P.M.

Dinner Return must be after 6:30 P.M.

(For example, an employee who does not depart Huntingdon until 7:00 A.M. cannot claim reimbursement for the breakfast meal.)

(4) Officials or employees cannot be reimbursed for meals consumed in Huntingdon unless they are required to attend an official function where a meal is served. (1978 Code, § 1-2205)

4-606. Food expense for official functions. In recognition of the fact that appointed members of official boards, committees, commissions, etc., of the town normally give of their time and talents as a public service without compensation; the payment for expenses related to the provision of food at authorized meetings of such official bodies of the town is hereby authorized, subject to the approval by the mayor, when such meetings are scheduled during meal hours as a matter of public interest. The secretary of such body is authorized to have the supplies and/or meal charged directly to the "Town of Huntingdon, by the provider and submit invoice for same with the appropriate disbursement voucher to the DF&A. (1978 Code, § 1-2206)

4-607. Miscellaneous expense. (1) Charges for official long distance calls or telegrams are reimbursable provided a statement is furnished indicating the date, name and location called or wired and the purpose of the call or wire. Local calls on official business where charges are made (by hotel, etc.) are also reimbursable, but charges must show on lodging receipts.

(2) Purchase of gasoline and other supplies, including emergency repairs, for official vehicles are reimbursable. Receipts are required.

(3) Pre-registration fees for approved conferences, conventions, seminars, etc., including any incidental cost for supplies, materials, luncheons or banquets connected thereto, etc., which are known in advance, will be paid directly by check by DF&A upon submission of the appropriate disbursement vouchers; however, all such expenses, including pre-payments, are to be included on the final "travel voucher". (1978 Code, § 1-2207)

4-608. Advance travel payment. In order to prevent any financial hardship on an official or employee performing official travel on behalf of the Town of Huntingdon, the DF&A is authorized to make cash advance travel

payments to such officials or employees, in a sum not to exceed the estimated cost of the travel as determined by the DF&A.

(1) DF&A Form No. 100 "Request for Advance Travel/Per Diem Payment" (or any subsequent revision thereof) shall be used for this purpose. All requests must be properly completed, approved by the appropriate supervisor, and submitted to DF&A one (1) week prior to the departure date.

(2) Each official or employee receiving an advance travel payment must sign a payroll deduction authorization statement (which is incorporated as a part of DF&A Form No. 100) prior to any disbursement of funds.

(3) Data concerning all advance travel payments shall be included on the final "travel voucher". (1978 Code, § 1-2208)

4-609. Submission of travel voucher. Each official or employee who has performed official travel for which advance travel payments were made, or who is entitled to claim reimbursement for expenses incurred in performing authorized official travel shall, within one (1) week of completion of said travel, submit through his or her departmental supervisor to the DF&A a properly completed and executed "travel voucher". (DF&A Form No. 099, or any subsequent revision thereof.)

(1) The travel voucher must show all expenses related to the official travel, to include all advanced travel payments, pre-payment of registration fees or charges, mileage, lodging, per-diem and all other reimbursable expenses, and must be accompanied by receipts and other substantiating documents (except for the routine per-diem for normal meals) which itemize in detail the name and address of the business, the date, and the services or supplies provided, and the total cost.

(2) It is the intent of this section to require a final travel document which will substantiate all public funds expended for that specific official travel sufficient to provide an adequate "audit trail" for public funds utilized thereby.

(3) In a case where the official or employee received a cash advance travel payment, but did not expend all of these funds, the official or employee must include a sum equal to the overpayment with his or her final "travel voucher". (1978 Code, § 1-2209)

4-610. Limitation and penalty. No funds shall be requested nor disbursed for authorized official travel, per-diem and related expenses, except same be in conformance with the provisions of this chapter. Any official or employee of the town who willfully violates the provisions thereof, or files false official statements or claims for reimbursement shall be subject to appropriate punitive actions, including, but not limited to, suit in a court of competent jurisdiction to recover any unauthorized advance cash payments or reimbursements, and possible terminating of employment for cause. (1978 Code, § 1-2210)

CHAPTER 7

HAZARDOUS CHEMICAL POLICY AND PROCEDURE

SECTION

- 4-701. General.
- 4-702. References.
- 4-703. Definitions.
- 4-704. Responsibilities.
- 4-705. Hazard communication.
- 4-706. Hazard communication program.
- 4-707. Effective date.

4-701. General. It shall be the policy of the Town of Huntingdon, Tennessee (the "town"), to insure the health, safety and welfare of its' employees as related to the hazards involved in the utilization, storage, manufacturing or disposal of chemicals in the workplaces of the Town by the development and maintenance of a program of communication and training for all employees. (1978 Code, § 1-1601)

4-702. References. This regulation is based on the following federal and state regulations:

- (1) Federal Hazard Communication Standards (29 CFR 1910.1200) (the "Standard").
- (2) Tennessee Hazardous Chemical Right to Know Law of 1988 (Public Chapter 417). (1978 Code, § 1-1602)

4-703. Definitions. (1) "Hazardous chemical" - means any element, chemical compound or mixture of elements and/or compounds which is a physical hazard or health hazard as defined by the OSHA standard in 29 CFR Section 1910.1200(c) or a hazardous substance as defined by the OSHA Standard 29 CFR Section 1910.1200(d) (The "Standard").

(2) "Label" - means the required written, printed or graphic information displayed on or affixed to containers of hazardous chemicals.

(3) "Employee" - means any and all employees of the Town of Huntingdon, be they full time, part time or seasonal, whether compensated by salary, wage or fee.

(4) "Material safety data sheet (MSDS)" - means a document prepared by the manufacturer of a chemical in accordance with the requirements of the OSHA standard.

(5) "Mixture" - means any combination of two (2) or more chemicals if the combination is not, in whole or in part, the result of a chemical reaction.

(6) "Work area" - means a room or defined space in a workplace where hazardous chemicals are produced or used, and where employees are present.

(7) "Workplace" - means an establishment at one (1) geographical location containing one (1) or more work areas.

(8) "Workplace chemical list" - means the list of hazardous chemicals encountered in the workplace, compiled pursuant to the Tennessee Hazardous Chemical Right to Know Law.

(9) "Physical hazard" - means chemicals such as combustible liquids, compressed gas, explosive, flammable, an organic peroxide, and oxidizer, pyrophoric, unstable (reactive) or water-reactive.

(10) "Health hazard" - means chemicals which can cause acute or chronic health effects in exposed employees, including, but not limited to, carcinogens, toxic agents, etc. (1978 Code, § 1-1603)

4-704. Responsibilities. (1) The mayor, as the town's chief executive officer, is responsible for the implementation of the applicable federal and state regulations.

(2) The Hazardous Materials Officer of the Huntingdon Fire Department is designated as the person responsible for the implementation and monitoring of the over-all hazardous chemical right to know program of the Town.

(3) The department supervisor is designated as the person responsible for the implementation, monitoring and employee training for their respective department or agency. (1978 Code, § 1-1604)

4-705. Hazard communication. (1) Chemical list of all materials in the workplace. The department supervisor shall inventory and evaluate all chemicals used or produced within his or her respective department to determine if they are hazardous or not, utilizing the standard form entitled "Chemical List of all materials in the Workplace," which shall become a permanent part of the department's "Hazardous Chemical Handbook" (the "Handbook").

(2) Workplace chemical list. After a review and evaluation of those products contained on the "Chemical List of All Materials in the Workplace," those chemicals which have been determined hazardous, and which are used, stored or produced in sufficient volume or frequency of use by the employee to constitute a hazard to his or her health shall be listed on the "Workplace Chemical List," which shall become a permanent part of the department's Handbook.

(3) The hazardous materials officer shall assist in making any determination of hazardous chemicals when requested by the departmental supervisor.

(4) In the event an adequate determination cannot be made locally, the matter will be referred to the Tennessee Occupational Safety and Health Agency for resolution.

(5) The hazardous materials officer shall be responsible for insuring the timely submission of any required Tier Two (Emergency and Hazardous Chemical Inventory) reports to the appropriate state and county agency, and the annual revisions thereto, for hazardous chemicals normally used or stored in the workplace in excess of fifty-five (55) gallons or five hundred (500) pounds. A copy of this report must also be submitted to the Chief of the Huntingdon Fire Department. (NOTE that this report deals with the volume by percentage of the actual hazardous chemical in the total product, not the total volume of the product itself. For example, 1,000 gallons of a product that contains by volume one percent (1%) of a hazardous chemical has only 10 total gallons of the hazardous chemical - not 1,000 gallons.) (1978 Code, § 1-1605)

4-706. Hazard communication program. Each department supervisor shall be responsible for the communication and implementation of the following requirements of the program to the employees.

(1) Labels and other forms of warning. Labels and other graphic forms of warning for each incoming hazardous chemical will be inspected for compliance with section (f) of the standard, and to insure that proper forms of warning are posted. For hazardous chemicals produced within the workplace (such as carbon monoxide and welding products), warnings will be posted if the situation demands (volume, frequency, etc.).

(a) Place one (1) sign in accordance with the NFPA704M series on the outside of any building which contains a Class A explosive, Class B explosive, poison gas (poison A), water-reactive flammable solid (flammable solid W), or radioactive material as listed in Table 1 of Federal Department of Transportation (DOT) regulations at 49 CFR, Part 172, and further defined in federal DOT regulations at 49 CFR, Part 173, or any other hazardous chemical in excess of the amounts listed in Section 14(a) of the Standards.

(2) Material safety data sheets (MSDS). MSDS will be obtained for each hazardous chemical to which employees are or may be exposed (dependent upon type, volume, source, frequency of use, etc.), will be obtained and made readily available according to the requirements of section (g) of the standard. For new chemicals, MSDS will be obtained and made available prior to use. For hazardous chemicals produced internally (such as carbon monoxide and welding fumes), a MSDS may be used or developed. All incoming MSDS will be checked for accuracy. These MSDS will be a permanent part of the department's Handbook.

(3) Employee information and training. (a) Information and training as required by section (h) of the standard will be provided to all new employees on all existing hazards at the time of initial employment, or whenever a new hazard is introduced into the work areas. A copy of the federal standard and the Tennessee Right to Know Law shall also be a permanent part of the department's Handbook.

(b) Required information will be obtained from sources which include those listed in Appendix C of the standard.

(c) Employees will be trained to be able to recall fundamental health and physical hazards associated with the specific chemicals to which they are exposed.

(d) The trainers are the department supervisors or a designated, qualified representative.

(e) The departmental training programs will include such aids and methods as formal training sessions, guest speakers, training films, video tapes and other graphic aids such as workplace posters, etc., to insure all employees are knowledgeable of the chemical hazards of the workplace and the proper methods of handling such hazards.

(f) The departmental supervisor shall be responsible for establishing and maintaining sufficient records to attest to the state of training of his or her employees. These records shall be filed in the department's Handbook. Copies of any individual training records or certificates may be forwarded to the Department of Finance and Administration for inclusion in the employee's personnel records. (1978 Code, § 1-1606)

4-707. Effective date. This regulation confirms the policy memorandum dated April 1st, 1988. It is understood that a regulation of this nature cannot conceivably cover every chemical or other hazard which may arise in the workplace; therefore, a logical, common-sense approach to safety on the job must be taken by every supervisor and every employee. (1978 Code, § 1-1607)

CHAPTER 8

FAIR LABOR STANDARDS PRACTICES

SECTION

- 4-801. Policy statement.
- 4-802. Definitions.
- 4-803. Covered employees.
- 4-804. Work periods established.
- 4-805. Annual starting date for work periods established.
- 4-806. Holiday pay.
- 4-807. Use of compensatory time.
- 4-808. Pay days established.
- 4-809. Records required.
- 4-810. Employees to be informed.

4-801. Policy statement. The Council of the Town of Huntingdon has determined that it shall be the policy of the said town to incorporate into its personnel management procedures and program, the provisions of the "Fair Labor Standards Act" of the U. S. Department of Commerce, as said act pertains to basic minimum wage and payment of overtime. Such policy is hereby established by this chapter. (1978 Code, § 1-1501)

4-802. Definitions. The following terms and definitions shall pertain to the application of the FLSA to the personnel management program of the Town of Huntingdon:

- (1) "Employ" - To suffer or permit to work.
- (2) "Employer" - The Town of Huntingdon, to include its departments, agencies and activities.
- (3) "Employees" - All persons employed by the Town of Huntingdon, but not including elected or appointed officials thereof.
- (4) "Public agencies" - The Government of the United States; the State of Tennessee, the County of Carroll, and the Town of Huntingdon, and their political sub-divisions.
- (5) "Firefighters" - Employees of the Huntingdon Fire Department who have been trained and have responsibility for the prevention or control of fires and having responsibility for incidental functions, such as housekeeping, equipment, maintenance and inspection.
- (6) "Volunteer firefighter" - A duly authorized member of the reserve component of the Huntingdon Fire Department who receives compensation while serving periods of active duty with said department, either for firefighting or training purposes.
- (7) "Volunteer" - A person who performs work on a volunteer basis, other than in or for the department or activity in which he or she is normally

employed, without any expressed or implied compensation agreement, and who is paid no more than \$2.50 per call.

(8) "Law enforcement personnel" - Duly authorized employees of the Huntingdon Police Department who are empowered to enforce laws; have the power of arrest and have undergone or are undergoing on-the-job training or similar instruction as a law enforcement officer. Not covered by this term are civilian dispatchers, support clerical staff, parking checkers, building security guards, or maintenance personnel.

(9) "General services employees" - All employees of the town other than firefighters and law enforcement officers.

(10) "Work hours" - In general, includes all the time an employee is required to be on duty on the employer's premises or at a prescribed workplace, and all time when the employee is suffered or permitted to work for the town. Annual, sick, military or special leave and holidays are not counted as hours worked, even though pay may be granted for these days.

(11) "Workday" - A regularly recurring period of 24 hours commencing at 00:01 o'clock A.M. each morning and ending at 12:00 o'clock midnight the same day.

(12) "Workweek" - A regularly recurring period of 168 hours in the form of 7 consecutive workdays, which shall commence at 00:01 o'clock A.M. on each Friday and end at 12:00 o'clock midnight on the following Thursday.

(13) "Work period" - An elected and regularly recurring period for public safety operations, which consist of 4 consecutive 7 day work weeks, or a 28 calendar workday cycle. A work year shall contain 14 consecutive work periods which shall commence on the first Friday of January of each year.

(14) "Compensable hours" - Includes all times during which the employee is on duty and available to perform his or her assigned tasks, but not necessarily including all hours involved in travel or over-night stays away from town for purposes of training or conferences.

(15) "Wages" - Compensation paid to an employee in the form of money for hours worked.

(16) "Salary" - Compensation paid to an employee in the form of money per work period, i.e. monthly salary.

(17) "Minimum wage" - As of 1 January, 1986, \$3.35 per hour worked.

(18) "Tour of duty" - With respect to the firefighters of the Huntingdon Fire Department, and the law enforcement personnel of the Huntingdon Police Department, an established work period of 28 consecutive workdays (one work period).

(19) "Regular rate of pay" - The rate per hour paid for normal non-overtime work, not to include the monetary value of town paid employee benefits. (For monthly salaried employees, multiply the monthly salary by 12 (months); then divide by 52 (weeks), then divide by the authorized work hours in the work week, which is 40 hours for all general services departments and the police department, and 48 hours for the fire department.)

(20) "Overtime" - All hours worked in excess of 40 hours in a 7 day work week for general services employees; in excess of 171 hours in a 28 day work period for law enforcement personnel, and in excess of 212 hours for firefighting personnel (excluding volunteer firefighters).

(21) "Comp time" - "Compensatory time" and "compensatory time off" are defined as hours when an employee is not working and which are paid for at the employee's regular rate of pay. These hours are not counted as hours worked in the week in which they are paid.

(22) "Child labor" - Use of children under the age of 18 years of age as an employee. (The employment of persons under the age of 18 by the Town of Huntingdon is not authorized, except for participation in state or federally funded summer youth work programs.)

(23) "On-call pay" - Compensation paid to an employee who is "on call," but is not confined to his or her home or any particular place, and is required only to leave work where he or she may be reached, or who may be furnished a communications paging device by his or her department. (1978 Code, § 1-1502)

4-803. Covered employees. All employees of the Town of Huntingdon are subject to the regulatory provisions of the FLSA, with the following exceptions:

- (1) All elected officials (mayor and councilmembers).
- (2) All elected or appointed officers (attorney, judge, recorder/director of finance and director of public safety).
- (3) Deleted. This subsection deleted by Ord. #339, § 2, May 1994. (1978 Code, § 1-1503)

4-804. Work periods established. The work periods herein established shall vary by department or activity as follows:

(1) General services employees: The work period for all general services employees of the town shall be a seven (7) day work period which shall begin at 00:01 o'clock A.M. on each Friday morning and end at 12:00 o'clock midnight the following Thursday. All hours worked in excess of 40 hours during this work period constitute overtime and will be paid at the rate of one and one-half (1-1/2) times the basic hourly wage or its equivalent at the end of the work period.

(2) Fire department: The work period or tour of duty for firefighting personnel shall be a 28 consecutive calendar day work period which shall contain a total of 212 regular work hours (an average of 53 work hours per 7 day work cycle).

- (a) As a minimum requirement, all hours worked in excess of 212 hours for a 28 day work period are over-time hours and must be paid at the rate of one and one-half (1-1/2) times the basic hourly rate. Any over-time payment due an employee which was not paid on the weekly payroll will be due and payable at the end of the 28 day work period.

(b) Over-time is totaled over the 28 day work period. For example, a firefighter who works 56 hours one work week and 50 hours the second work week, and 53 hours the third and fourth weeks of the work period would not, under the FLSA, be due any "mandatory" over-time payment for this work period, as the total hours worked during the work period would be 212 hours.

(c) Volunteer firefighters are exempt from the provisions of this practice, and shall be paid on a "per call" basis, using a "ticket system" whereby the fire chief shall issue a ticket for each time the volunteer is called out for a fire call, a drill, training etc. The allowable amounts for these tickets shall be established by actions of the town council as spread upon the minutes of the appropriate public meeting.

(i) The pay period for volunteer firefighters shall be the calendar month, and their pay check shall normally be issued at the monthly fire training period for the prior month. The fire chief shall submit to the Department of Finance such documentation for payment as the director may from time to time require.

(ii) Employees, regular or part-time, of the Town of Huntingdon who also serve as volunteer firefighters shall be paid at the same rate as the non-employee volunteer firefighters for fire calls, drills, etc., and not at their regular town salary/wage rate, which shall be paid in addition to their regular salary or wages, when the response to a fire call is during their normal working hours.

(iii) Non-employee volunteer firefighters shall not be used as a temporary replacement for an absent regular fire department employee without the expressed approval of the mayor for each separate instance of such use. When allowed, they shall be paid at the prevailing federal minimum wage rate, and said payment shall be charged to the regular department payroll and not to volunteer firefighter expense.

(iv) Regular firefighter employees of the town who wish to respond to fire-calls while off-duty and not on stand-by shall not be construed as "volunteer firefighters", but shall remain classified as regular employees; however, if the individual firefighter voluntarily consents to respond to such calls and receive the minimum wage for such hours worked and he or she agrees to same in writing, such shall be allowable. It should be noted that all such hours worked must be added to the firefighter's regular work hours for the purpose of computing the total number of hours worked in a regular 28 day work period.

(d) Regardless of the "mandatory" payment of overtime required pursuant to sub-sections (2)(a) and (b), above, it shall be the policy of the Town of Huntingdon to pay all regular firefighters time-and-a-half (1 ½)

for all hours worked in excess of forty-eight (48) hours in the established seven (7) day work cycle.

(3) Police department: The work period, or "tour of duty," for the sworn officers of the police department will be a 28 consecutive calendar day work period which shall contain a total of 171 regular work hours. (An average of 42.75 work hours per 7 day work cycle.)

(a) As a minimum requirement, all hours worked in excess of 171 hours during the 28 day work period are over-time and will be paid at the rate of one and one-half (1-1/2) times the basic hourly rate. Any over-time due an employee which was not paid on the weekly payroll will be due and payable at the end of the 28 day work period.

(b) Over-time may be totaled over the 28 day work period. For example, a police officer who works 46 hours the first week, 40 hours the second week and 43 hours the third and fourth weeks of the work period would have worked a total of 172 hours during this work period. It is mandatory under the FLSA that this employee be paid, at the least, the 1 hour of overtime at the rate of time and a half.

(c) Support, clerical or maintenance personnel of the police department shall, for the purposes of this regulation, be considered as general services employees of the town, pursuant to § 4-804(1), above.

(d) Regardless of the "mandatory" payment of overtime required pursuant to subsections (3)(a) and (b) above, it shall be the policy of the town to pay all regular sworn police officers who are on a regular forty (40) hour shift time-and-a-half (1 1/2) for all hours worked in excess of forty (40) hours in the established seven (7) day work cycle. It shall also be the policy of the town to pay all regular sworn police officers who are on a regular forty-two (42) hour shift time-and-a-half (1 1/2) for all hours worked in excess of forty-two (42) hours in the established seven (7) day work cycle.

(e) Due the irregularity of total hours worked by regular, sworn police officers an individual officer could work thirty-six (36) hours, forty (40) hours or forty-eight (48) hours during the established seven (7) day work cycle. Should this officer be paid strictly by the accountable hours worked during the seven (7) day work cycle, he would receive a fluctuating pay check each week. This type weekly pay is not conducive to the general health and welfare of the police department, and is detrimental to morale; therefore the town will offer all such employees a "level pay" plan whereby the employee will be paid for forty (40) or forty-two (42) hours, depending on the employee's regular number of hours in a work week, for each seven (7) day work cycle regardless of the hours actually worked. It is anticipated that the payments will "even-out" over a period of time; however, the payroll section will audit each effected employee's pay records on a quarterly basis and make such adjustments as necessary to balance the employee's pay account. Any employee who

wishes to take part in this plan shall be required to execute the appropriate document requesting this service, and acknowledging that should he terminate his employment while he has a debit balance in his pay account, the debit will be recovered at the time of termination.

(4) On-call or stand-by work: Any employee who has been designated as being "on-call" or "stand-by" by his or her department to respond to emergency service calls, but who is not required to remain at his or her home, office, or any other particular place, but is only required to leave work where he or she may be reached, or who is provided with a communications pager and is otherwise free to pursue his or her personal business within contact range, is not considered to be "working" as defined hereinabove, and will be eligible for compensation only for those times when actually responding to, or returning from a service call. Should these creditable work hours result in the employee exceeding the "normal" work hours for the pay period, such compensation must be at time-and-a-half.

(5) Employees at their own option but with the approval of their departmental or activity supervisor may substitute during scheduled hours for other employees employed in the same capacity. In the case of such substitution, the hours involved are credited to the scheduled employee and not to the substitute employee. The supervisor need not maintain a record that the substitution has taken place. (1978 Code, § 4-805, as amended by Ord. #359, Feb. 1995, and Ord. #482, June 2005)

4-805. Annual starting date for work periods established. The beginning date for the first work period for each calendar year shall be the first Friday in January of each year.

(1) For the general departments or activities the work period of 7 days shall start at 12:01 A.M. each Friday and end at 12 mid-night the following Thursday.

(2) For the fire and police departments, the 28 day work period, for calendar year 1986, shall commence on January 3, 1986, and every four weeks thereafter. There will be 13, 28 day work period in the work year. (1978 Code, § 1-1505)

4-806. Holiday pay. The following policy will govern the payment for hours worked on a holiday authorized by the town:

(1) When a general service employee is required by his or her supervisor to work on a holiday, he or she will be paid at a double-time rate for such hours worked.

(2) As pertains to employees on shift work in the fire and police departments, when a holiday falls on the employee's regular day off as indicated by an approved work schedule, he or she will be paid an amount equal to an additional 8 hours wages at straight time as holiday pay.

(3) When an employee is on authorized leave of absence and a holiday falls within that leave period, the holiday is not chargeable as leave time, nor will that employee be entitled to receive any holiday pay for that day.

(4) Part-time, on-call and/or temporary employees are not entitled to holiday pay.

(5) To avoid further confusion as to which day the holiday pay will apply to for pay and accounting purposes for regular sworn police officers and/or regular firefighters who work a shift which falls partly on the holiday and partly on the preceding or following day; the total holiday pay will be applied to the work day during which the employee's shift begins. For example; a police officer begins his shift at 7:00 P.M. on a Thursday and ends his shift at 3:00 A.M. the next morning - Friday. Friday being the approved observed holiday, the authorized eight (8) hours of holiday pay will be credited to Thursday. (1978 Code, § 1-1506, as amended by Ord. #359, Feb. 1995)

4-807. Use of compensatory time. Covered employees of the Town of Huntingdon may be given compensatory time off in lieu of immediate overtime pay in cash, at a rate of not less than one and one-half hours off for each hour of overtime worked, but only pursuant to an agreement or understanding arrived at between the employee and his departmental/activity supervisor before performance of the work.

(1) The use of compensatory time will be held to the minimum requirements of each department of activity.

(2) The employee shall be permitted and encouraged to use accrued compensatory time within 6 months after it is accrued, if to do so will not unduly disrupt the operations of his or her department or activity.

(3) The maximum time which may be accrued by any effected employee shall be eighty (80) hours of actual work hours (120 days of compensatory time).

(4) An employee who has accrued the maximum number of compensatory hours shall be paid overtime compensation in cash for any additional overtime hours of work.

(5) Payment for accrued compensatory time upon termination of employment shall be calculated at the average regular rate of pay for the final 3 years of employment, or the final regular rate received by the employee, whichever is the higher.

(6) The accrual of authorized compensatory time shall be computed on the basis of a 40 hour, 7 day work period for general service employees; of a 171 hour, 28 day work period for law enforcement employees, and of a 212 hour, 28 day work period for firefighter employees.

(7) The provision of this section do not apply to those officers, officials or executive employees enumerated in § 4-803(1) and (2) above. (1978 Code, § 1-1507)

4-808. Pay days established. The department of finance and administration will dispense payroll checks each Friday, or the preceding day should Friday fall on a holiday, for the work week ending at 12:00 midnight the preceding Thursday. NOTE: In the case of employees working on shift on a Thursday night, the work hours must be divided between two work weeks, as

the calculation of work hours "cuts-off" as of midnight Thursday. (1978 Code, § 1-1508)

4-809. Records required. The department of finance and administration shall develop and provide the necessary time sheets and payroll records to adequately verify and insure compliance with the policy herein established, and for the establishment and maintenance of all documentation required by the FLSA, or other state or federal agencies.

(1) Each department will be provided with the employee information posters, as are required by the FLSA, which must be permanently displayed on the departmental/activity employee bulletin boards.

(2) Each departmental or activity supervisor shall be responsible for the maintenance of adequate work/time records for each employee in his or her department to insure that all time worked by each employee is accounted for daily. A copy of these records are to be submitted to the department of finance and administration at the end of the last work period in June and December of each year for records retention required by the FLSA.

(3) Personnel and payroll records required by the FLSA necessitate that the town prepare and maintain certain minimum personnel data on all employees - regular, part-time or seasonal and including volunteer firefighters. This data will normally be obtained at the time of the employee's in-processing. (1978 Code, § 1-1509)

4-810. Employees to be informed. Each department or activity supervisor shall insure that all employees are made aware of the policies established hereby. The personnel officer will provide an extract copy of this chapter which shall be posted on the employee bulletin board in each department or activity. (1978 Code, § 1-1510)

CHAPTER 9

SEXUAL HARASSMENT POLICY

SECTION

- 4-901. Statement of policy.
- 4-902. Definitions.
- 4-903. Types of sexual harassment.
- 4-904. Reporting of sexual harassment or discrimination.
- 4-905. Investigation of complaints.
- 4-906. Corrective action.
- 4-907. Right of appeal.
- 4-908. Training.

4-901. Statement of policy. It shall be the policy of the Town of Huntingdon that all of its employees shall be afforded a workplace that is free of sexual harassment and/or sexual discrimination, not only for the protection of these persons, but also to protect the taxpayers of the town against costly liability damages which may arise out of sexual harassment/discrimination suits. Supervisors at all levels must take a leadership role in recognizing that neither sexual harassment nor sexual discrimination in the workplace is something to be condoned or taken lightly, and must communicate this policy and attitude to everyone in his or her department or activity. (Ord. #353, Oct. 1994)

4-902. Definitions. (1) The Equal Employment Opportunity Commission (EEOC) of the federal government defines "sexual harassment" as: unwelcome sexual advances, request for sexual favors, and other verbal or physical conduct of a sexual nature when:

- (a) Submission to the conduct is made, either explicitly or implicitly, a term or condition of an individual's employment;
- (b) Submission to or rejection of the conduct by an individual is used as the basis for employment decisions affecting the individual; or
- (c) The conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

(2) "Sexual discrimination in the workplace" may be defined as any action or proposed action whereby the employee's sex is the basis for job assignment, job preference, favorable treatment, benefits, etc., rather than his or her suitability, qualifications and ability. It is to be noted that sexual discrimination does not necessarily involve sexual harassment, and, further, that both male and female employees may be subject to sexual discrimination.

(3) "Employee" shall include all officials, officers and employees of all classification of the Town of Huntingdon, Tennessee. (Ord. #353, Oct. 1994)

4-903. Types of sexual harassment. Sexual harassment is somewhat more difficult to define than sexual discrimination; however, the EEOC notes that there are two (2) types of sexual harassment: quid pro quo and hostile work environment harassment.

(1) The first two (2) items in the above definition [§ 4-902(1)] constitute quid pro quo (Latin for "something for something") harassment. The classic example of quid pro quo harassment is the supervisor who request sex or sexual favors from a subordinate in return for job benefits.

(2) The third item in the above definition [§ 4-902(1)] constitutes hostile work environment harassment. This type of harassment does not necessarily have to involve supervisors, but might involve only fellow employees. Conduct such as derogatory sexual comments, constant flirting, repeatedly requesting dates, sexual jokes, displaying nude pictures, and physical touching can constitute hostile environment harassment. (Ord. #353, Oct. 1994)

4-904. Reporting of sexual harassment or discrimination.

(1) Any employee who has a legitimate complaint concerning any form of sexual harassment and/or sexual discrimination related to his or her employment by the Town of Huntingdon is urged to report the incident immediately to his or her department or activity supervisor, or, if this is not an appropriate action, directly to the personnel officer and/or the mayor.

(2) There will be no retaliation in any form or manner against an employee who makes a legitimate claim of sexual harassment and/or discrimination; who is a witness to same, or who provides evidence to the investigating committee; however, any employee who is found to have willfully and knowingly filed a false and malicious claim may be subject to appropriate disciplinary action.

(3) Any employee who has filed such a claim shall be fully informed of the investigation and its findings and results. (Ord. #353, Oct. 1994)

4-905. Investigation of complaints. (1) Upon the receipt of a legitimate complaint of alleged sexual harassment and/or sexual discrimination, the mayor shall, within ten (10) days, appoint an investigating committee which shall conduct a full and fair investigation of the complaint(s) and submit, within thirty (30) days, a complete, written report of their findings and recommendations. If requested, the town attorney shall make him or herself available to provide legal guidance to the investigating committee. All reports of such incidents would be made promptly by the employee(s) concern to facilitate a timely investigation.

(2) The following basic guide lines should be used at every stage of the complaint investigation and reporting process:

(a) Take every complaint seriously. Sexual harassment is a serious complaint with serious consequences for all concerned.

- (b) Take action immediately - don't delay. Delays may send the message that the town does not take the complaint seriously.
- (c) Keep information as confidential as possible; however, no guarantee of complete confidentiality should be made. This might be impossible to keep as the investigation progresses.
- (d) Review and analyze all the information obtained.
- (e) Be objective in taking statements.
- (f) Do not take sides and make it clear that the outcome of the investigation will be based on the available facts.
- (g) Document every step of the complaint investigation.
- (h) Upon completion of the investigation, provide the mayor with a detailed report of findings and recommendations, including sworn statements and other pertinent evidence. (Ord. #353, Oct. 1994)

4-906. Corrective action. (1) Upon receipt and review of the investigating committee's report of findings and recommendations the mayor shall promptly take such action as may be necessary and appropriate to discipline those employees found guilty of sexual harassment and/or sexual discrimination. This disciplinary action may take any form from verbal reprimand to termination with prejudice.

(2) If it is found that no harassment or discrimination has occurred or that there is not sufficient evidence that such actions occurred, this will be communicated to the employee who made the complaint, along with the reasons for this determination.

(3) If it is found that a false and malicious claim has been filed, the employee who filed such claim may thereupon be subject to disciplinary action. (Ord. #353, Oct. 1994)

4-907. Right of Appeal. Pursuant to Huntingdon Municipal Code, § 4-222 any employee who has been informed of a demotion, suspension or termination action against him/her shall have the right to appeal the proposed action(s) to the Employee Appeal Board of the town by filing a written appeal with the town recorder within ten (10) days of being formally notified of such proposed actions. Upon filing of such an appeal, no further formal action shall be taken as regards the proposed disciplinary action until the Employee Appeal Board shall have acted upon said appeal and rendered a report of its findings and recommendations. [See HMC § 4-222, for further information as to the employee remaining on the job pending the outcome of such an appeal.] (Ord. #353, Oct. 1994)

4-908. Training. All employees shall be informed of the contents of this policy and procedure immediately upon its passage. It shall be incorporated in every department or activity's training program a minimum of annually, and all new employees shall be briefed upon their hire. Each department or activity

supervisor is assigned the responsibility for enforcement of this policy within his or her department or activity. (Ord. #353, Oct. 1994)

CHAPTER 10

**CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING
POLICY AND PROCEDURES FOR PERSONNEL SUBJECT TO
COMMERCIAL DRIVERS LICENSE**

SECTION

4-1001. Purpose.

4-1002. Adoption of the policy attached and made a part thereof.

4-1003. Appointment of program administrator.

4-1004. Duties and responsibilities.

4-1001. Purpose. To establish policy and procedures for the testing of controlled substances and alcohol use for Town of Huntingdon personnel who operate commercial vehicles and are subject to the commercial drivers' license requirements set forth by the Department of Transportation and Federal Highway Administration; to designate a program administrator for the town; and to authorize the implementation and management of the policy and procedures. (Ord. #393, Oct. 1997)

4-1002. Adoption of the policy attached and made a part thereof. The copy of the policy which is hereto attached¹ and made a part of this chapter as though the same were copied fully herein, "Town of Huntingdon Controlled Substances and Alcohol Use and Testing, Policy and Procedures," in accordance with U. S. Department of Transportation Federal Highway Administration Regulations (49 CFR Parts 382 and 40), shall be and is hereby adopted by reference for the use and reference for policy and procedures for personnel of the Town of Huntingdon who are subject to the commercial drivers' license requirements. (Ord. #393, Oct. 1997)

4-1003. Appointment of program administrator. The Town Recorder of the Town of Huntingdon shall be and is hereby appointed "Program Administrator" for said town, and shall discharge those duties normally associated with such office. (Ord. #393, Oct. 1997)

4-1004. Duties and responsibilities. The program administrator shall be and is hereby authorized and directed to coordinate with the town's consortium company, and provide oversight and management for the town's policy and procedures for drug and alcohol testing of commercial drivers license

¹The attachment referred to in Ord. #393 is of record in the recorder's office.

employees, which shall be subject to the review and approval by said town council. (Ord. #393, Oct. 1997)

TITLE 5**MUNICIPAL FINANCE AND TAXATION**¹**CHAPTER**

1. MISCELLANEOUS.
2. REAL PROPERTY TAXES.
3. PRIVILEGE TAXES.
4. WHOLESALE BEER TAX.
5. LOCAL SALES TAX.
6. IN-LIEU-OF AD VALOREM TAX.
7. PURCHASING AND PROCUREMENT.
8. HOTEL/MOTEL TAX

CHAPTER 1**MISCELLANEOUS****SECTION**

- 5-101. Official depository for town funds.
- 5-102. Local Government Investment Pool.
- 5-103. Tax adjustments and refunds.
- 5-104. Adjustment and refunds of charges or fees.

5-101. Official depository for town funds.² Pursuant to § 4.19 of the Charter of the Town of Huntingdon, Tennessee, the following financial management policy is approved and established:

(1) The following financial institutions are hereby designated as official depositories for any and/or all funds of the Town of Huntingdon. The director of finance is hereby authorized to establish such accounts therewith as may be necessary in conformity with standard accounting and banking procedures:

(a) The Bank of Huntingdon, 111 East Main Street, Huntingdon, Tennessee;

(b) The Huntingdon Branch, Carrol Bank & Trust, 132 West Main Street, Huntingdon, Tennessee, and

(c) The Liberty Federal Savings Bank, 320 East Main Street, Huntingdon, Tennessee,

¹Charter reference: art. IV and § 1.04(a), (b), and (d).

²Charter reference: § 4.19.

(2) Each designated depository shall provide the director of finance an approved collateral (a security pledge):

(a) Whose market value is equal to one hundred and five percent (105%) of the value of the town's deposit secured thereby, less so much of such amount as is protected by the federal deposit insurance corporation; and

(b) Which shall be bonds of the United States or any of its agencies; obligations guaranteed by the United States or any of its agencies - the payments of which are fully guaranteed both as to principal and interest by the United states, and/or bonds of the State of Tennessee. (1978 Code, § 6-101)

5-102. Local Government Investment Pool. The Local Government Investment Pool (LGIP) of the Office of the Treasurer of the State of Tennessee, Nashville, Tennessee, is hereby designated as an official depository for the investment of idle funds of the accounts of the town. The mayor and town recorder/director of finance are authorized to establish and maintain accounts with the LGIP for this purpose in accordance with accepted cash flow management principles. (1978 Code, § 6-102)

5-103. Tax adjustments and refunds. The town recorder/director of finance of the Town of Huntingdon is empowered and authorized to adjust and settle with taxpayers all errors and double assessments of taxes owed to the Town of Huntingdon erroneously or illegally collected by him pursuant to the provisions of art. 4 of the charter of the town, or of title 5 of the Huntingdon Municipal Code, and to direct the refunding of the same. Any claim for such refunding by the town of such taxes alleged to have been erroneously or illegally paid shall be filed with the town recorder/director of finance, supported by proper proof, within one (1) year from the date of payment, otherwise the taxpayer shall not be entitled to refund and the claim for refund shall be barred. This authority is based on that granted county clerks under the provisions of Tennessee Code Annotated, § 67-1-707, to include any future amendments thereto, and by § 4.17 of the charter of the town, to include any future amendments thereto. (1978 Code, § 6-103)

5-104. Adjustment and refunds of charges or fees. The town recorder/director of finance of the Town of Huntingdon is empowered and authorized to correct, adjust and settle all errors in the various charges and fees levied or collected by him pursuant to the authorizations contained in Title 1 through Title 20, Huntingdon Municipal Code, including any future amendments thereto, provided; however, that any claim for correction or adjustment and settlement is filed within one (1) year of the date of payment thereof. All adjustments and settlement of claims processed pursuant to this section shall be accomplished by documented change order duly signed by the

appropriate official of the town and filed in the office of the town recorder/director of finance. (1978 Code, § 6-104)

CHAPTER 2

REAL PROPERTY TAXES

SECTION

5-201. When due and payable.

5-202. When delinquent--penalty and interest.

5-201. When due and payable.¹ Taxes levied by the Town of Huntingdon shall become due and payable annually on the first day of October of the year for which levied. (1978 Code, § 6-201)

5-202. When delinquent--penalty and interest.² All real property taxes shall become delinquent and shall be subject to such penalty and interest as provided in § 4.15 of the town's charter.³ (1978 Code, § 6-202)

¹State law references

Tennessee Code Annotated, §§ 67-1-701, 67-1-702 and 67-1-801, read together, permit a municipality to collect its own property taxes if its charter authorizes it to do so, or to turn over the collection of its property taxes to the county trustee. Apparently, under those same provisions, if a municipality collects its own property taxes, tax due and delinquency dates are as prescribed by the charter; if the county trustee collects them, the tax due date is the first Monday in October, and the delinquency date is the following March 1.

²Charter and state law reference

Tennessee Code Annotated, § 67-5-2010(b) provides that if the county trustee collects the municipality's property taxes, a penalty of 1/2 of 1% and interest of 1% shall be added on the first day of March, following the tax due date and on the first day of each succeeding month.

³Charter and state law references

A municipality has the option of collecting delinquent property taxes any one of three ways:

- (1) Under the provisions of its charter for the collection of delinquent property taxes.
- (2) Under Tennessee Code Annotated, §§ 6-55-201--6-55-206.
- (3) By the county trustee under Tennessee Code Annotated, § 67-5-2005.

CHAPTER 3

PRIVILEGE TAXES

SECTION

5-301. Tax levied.

5-302. License required.

5-301. Tax levied. Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by state laws.

The taxes provided for in Tennessee Code Annotated, title 67 - Taxes and Licenses, chapter 4 - Privilege and Excise Taxes, part 7 - Business Tax, including all future amendments, revisions, changes or alterations thereto, are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations and occupations carried on within the town at the rates in the manner prescribed, which shall be in accordance with the applicable rules and regulations of the Tennessee Department of Revenue or its successor agency.

The minimum tax payment, as required by the "Business Tax Act", shall be fifteen dollars (\$15) for all classifications taxable thereunder by the Town of Huntingdon, per annum, plus a three dollars and fifty cents (\$3.50) registration fee. (1978 Code, § 6-401)

5-302. License required. No person shall exercise any such privilege within the town without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon the applicant's compliance with all regulatory provisions in this code and payment of the appropriate privilege tax. (1978 Code, § 6-402)

CHAPTER 4

WHOLESALE BEER TAX**SECTION**

5-401. To be collected.

5-401. To be collected. The recorder is hereby directed to take appropriate action to assure payment to the town of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.¹ (1978 Code, § 6-501)

¹State law reference

Tennessee Code Annotated, title 57, chapter 6 provides for a tax of 17% on the sale of beer at wholesale. Every wholesaler is required to remit to each municipality the amount of the net tax on beer wholesale sales to retailers and other persons within the corporate limits of the municipality.

CHAPTER 5

LOCAL SALES TAX

SECTION

- 5-501. Tax levied; rate; maximum tax; exemptions; penalties.
- 5-502. Effective date for collection.
- 5-503. State Department of Revenue to collect.
- 5-504. Tax suits to be brought against mayor.
- 5-505. Additional tax levied.

5-501. Tax levied; rate; maximum tax; exemptions; penalties. As authorized by Tennessee Code Annotated, § 67-6-701, as amended, there is levied a tax in the same manner and on the same privileges subject to the "Retailers Sales Tax Act" under Tennessee Code Annotated, title 67, chapter 6, as the same may be amended, which are exercised in the Town of Huntingdon. The tax is levied on all such privileges at a rate of three-fourteenths of the present state rate and one fourth of state rates if and when the general state rate is reduced to 3%, and in the same manner as the tax is levied in the Retailer's Sales Tax Act, codified in Tennessee Code Annotated, title 67, chapter 6.

The tax levied shall be in addition to the sales tax now being levied by the State of Tennessee and the County of Carroll. The additional tax herein levied shall not exceed two dollars and fifty cents (\$2.50) on the sale or use of any single article of personal property, and there is excepted from the tax levied by this chapter the sale, purchase, use, consumption or distribution of electric power or energy, or natural or artificial gas, or coal and fuel oil. Penalties and interest for delinquencies shall be the same as provided in the Tennessee Code Annotated, § 67-6-516. (1978 Code, § 6-301)

5-502. Effective date for collection. If a majority of those voting in the election required by Tennessee Code Annotated, § 67-6-706, approve the ordinance, collection of tax levied by the provisions of this chapter shall begin on the first day of the month occurring thirty or more days after the County Election Commission makes its official canvass of the election returns.¹ (1978 Code, § 6-302)

5-503. State Department of Revenue to collect. It having been determined by the Department of Revenue of the State of Tennessee that it is

¹The election for approval or disapproval of Ord. #105 was held on August 12, 1975, and the result was 636 votes for the ordinance and 68 against.

feasible for this tax to be collected by that department, said determination being evidenced by local option sales and use tax rules and regulations heretofore promulgated by the Department of Revenue, the department shall collect such tax concurrently with the collection of the state tax and in the same manner as the state tax is collected in accordance with rules and regulations promulgated by said department. The Mayor of Huntingdon is hereby authorized to contract with the Department of Revenue for the collection of the tax by the department, and to provide in said contract that the department may deduct from the tax collected a reasonable amount or percentage to cover the expense of the administration and collection of said tax. (1978 Code, § 6-303)

5-504. Tax suits to be brought against mayor. In the event the tax is collected by the Department of Revenue, suits for the recovery of any tax illegally assessed or collected shall be brought against the mayor. (1978 Code, § 6-304)

5-505. Additional tax levied. (1) As authorized by Tennessee Code Annotated, §§ 67-6-701--67-6-712, as amended, there is levied a tax in the same manner and on the same privileges subject to the Retailers' Sales Tax Act under Tennessee Code Annotated, title 67, chapter 6, parts 1-6, as the same may be amended, which are exercised in the Town of Huntingdon. The tax is levied on all such privileges at a rate of one-eleventh of the rate levied in the Retailers' Sales Tax Act, Tennessee Code Annotated, title 67, chapter 6, parts 1-6, as amended, except as limited or modified by statute.

(2) If a majority of those voting in the election required by Tennessee Code Annotated, § 67-6-706 vote for the ordinance, collection of the tax levied by this ordinance shall begin on the first day of the month occurring 30 or more days after the county election commission makes its official canvass of the election returns.¹

(3) It having been determined by the Department of Revenue of the State of Tennessee that it is feasible for this tax to be collected by that department, that determination being evidenced by Local Option Sales and Use Tax Rules and Regulations heretofore promulgated by the Department of Revenue, the department shall collect the tax concurrently with the collection of the state tax in the same manner as the state tax is collected in accordance with the rules and regulations promulgated by the department. The Mayor of Huntingdon is hereby authorized to contract with the Department of Revenue for the collection of the tax by the department, and to provide in the contract that the department may deduct from the tax collected a reasonable amount or percentage to cover the expense of the administration and collection of the tax.

¹The election was held on November 6, 1990, and the result was 450 votes for the additional tax and 364 against.

(4) In the event the tax is collected by the Department of Revenue, suits for the recovery of any tax illegally assessed or collected shall be brought against the State Commissioner of Revenue and the Mayor of Huntingdon.

(5) A certified copy of this ordinance shall be transmitted to the Department of Revenue by the town recorder forthwith and shall be published one time in a newspaper of general circulation in the Town of Huntingdon prior to the election called for in subsection (2) hereof. (1978 Code, § 6-305)

CHAPTER 6

IN-LIEU-OF AD VALOREM TAX

SECTION

- 5-601. General statement of policy.
- 5-602. In-lieu-of ad valorem tax established.
- 5-603. Amount of in-lieu-of ad valorem tax to be levied.
- 5-604. Cessation of in-lieu-of ad valorem tax payments.
- 5-605. Exclusions.
- 5-606. Tax due dates.
- 5-607. Delinquent tax - penalty and interest.

5-601. General statement of policy. The state constitution mandates that all Tennessee counties/municipalities assess property as follows:

Industrial & Commercial Real Property	40%
Industrial & Commercial Personal Property	30%
Residential & Farm Real Property	25%

The Huntingdon Industrial Development Board, however, may be authorized by the Council of the Town of Huntingdon, under the provisions of Tennessee Code Annotated, § 7-53-305, to establish and implement a policy for payment of in-lieu-of ad valorem taxes which may be applied to those industrial properties whose titles are vested in the town or the HIDB and which are being developed by industrial firms using Industrial Revenue Bond financing. (1978 Code, § 6-601)

5-602. In-lieu-of ad valorem tax established. To provide for those instances where locating industries are utilizing Industrial Revenue Bond financing to develop industrial facilities on properties, the titles to which are vested in the town and/or the HIDB, there is hereby established and authorized a policy of requiring annual payment of in-lieu-of ad valorem tax by such industries as hereinafter set forth. The authorization for the application of these taxes to a specific industry shall be by resolution of the HIDB, which shall set forth all the details of such payment by said industry, a copy of which shall be furnished the council for inclusion in the minutes thereof at the next regular meeting of same thereafter. (1978 Code, § 6-602)

5-603. Amount of in-lieu-of ad valorem tax to be levied. A one (1) year moratorium on the payment of such tax is authorized to offset moving and start-up cost. This tax year shall be the calendar year in which said industry commences its initial production.

(a) Beginning with the second year, all real property will be assessed at 30% of actual value and the industry shall pay an in-lieu-of-taxes payment to the Town Recorder of the Town of Huntingdon in an amount equal to ten percent (10%) of the product of the assessed value times the current municipal tax rate.

(b) Each year thereafter, the percentile for computing the in-lieu-of-taxes payment shall increase five percent (5%) until one hundred percent (100%) of the required municipal tax due. (1978 Code, § 6-603)

5-604. Cessation of in-lieu-of ad valorem tax payments. Upon full payment of the bond issue and expiration of the lease agreement, in-lieu-of-tax payment will cease and the industry will be subject to all real and personal property taxes imposed by the constitution and laws of the State of Tennessee, and of the Town of Huntingdon, Tennessee. (1978 Code, § 6-604)

5-605. Exclusions. The provisions of this chapter apply only in those cases where the ownership of the properties concerned is vested in the town and/or the HIDB, or one of its' authorized governmental subentities, and the industry is utilizing Industrial Revenue Bonds for the financing vehicle, on a lease arrangement with the municipality. (1978 Code, § 6-605)

5-606. Tax due dates.¹ The due dates of in-lieu-of-taxes shall be fixed by ordinance. The town shall send in-lieu-of tax bills to said taxpayers showing the assessed valuations, amounts of taxes due, tax due dates, and information as to delinquency dates. Failure to send tax bills shall not, however, invalidate any tax, penalty or interest thereon.

(1) If not otherwise provided for by ordinance, the date the in-lieu-of-taxes become due, and the date upon which they become delinquent, shall be the same dates as those established by state regulations for the property taxes of Carroll County, Tennessee. (1978 Code, § 6-606)

5-607. Delinquent tax - penalty and interest.² Effective with the date of delinquency of property taxes, penalty and interest thereon shall be applied as fixed by ordinance, or in the absence of such ordinance, in the manner and rate as that prescribed by the Trustee, Carroll County, for delinquent county property taxes. (1978 Code, § 6-607)

¹Charter reference: § 4.15(a) and (b).

²Charter reference: § 4.15(c).

CHAPTER 7

PURCHASING AND PROCUREMENT

SECTION

- 5-701. Purpose.
- 5-702. Definitions.
- 5-703. General provisions.
- 5-704. Sole source procurement.
- 5-705. Emergency procurement.
- 5-706. Real property procurement.
- 5-707. Electricity, natural gas and telephones services.
- 5-708. Fuel (gasoline and diesel) procurement.
- 5-709. Professional services contracts.
- 5-710. Insurance contracts.
- 5-711. Intergovernmental purchasing.
- 5-712. Contractual services from non-profit groups.
- 5-713. Purchases of less than \$4,000.00.
- 5-714. Purchases of less than \$10,000.00 but over \$4,000.00.
- 5-715. Purchases of more than \$10,000.00.
- 5-716. Limitations and penalties.
- 5-717. Purchases of property at public auctions.

5-701. Purpose. This regulation will implement the provisions of art. IV, § 4.07 of the Charter of the Town of Huntingdon, entitled "Purchasing and Procurement," amended by Private Acts of 1985, which adopted the basic provisions of Tennessee Code Annotated, §§ 6-56-301 through 6-56-306, which is entitled the "Municipal Purchasing Law of 1983," and will provide a standard operating procedure for the orderly, timely and responsible purchase and procurement of supplies, materials and equipment for the activities of the town to insure the proper use of the public funds of the town. (1978 Code, § 1-1201)

5-702. Definitions. For the purposes of this regulation the following definitions shall apply:

(1) "Purchasing agent." The person designated by the mayor as responsible for the implementation of this regulation, and who shall exercise supervision over all purchasing and procurement of all supplies, materials, equipment and/or services, as well as property control and inventory for supplies, materials, equipment or services for the Town of Huntingdon, or, failing such designation, the mayor him/herself.

(2) "Purchase." The act of procuring supplies, materials, equipment and/or services in exchange for money where title will vest in the town.

(3) "Lease." The act of procuring the use of supplies, materials, equipment and/or services in exchange for a periodic payment of money where title will not vest in the town.

(4) "Lease/purchase." The act of procuring the use and ownership of supplies, materials, equipment and/or services by the means of periodic payments of money, where title will vest in the town at a pre-agreed point in time, when certain monetary conditions have been met.

(5) "Request for quotation." The form prescribed by the purchasing agent to invite competitive bids from prospective suppliers for supplies, materials, equipment or services (same as invitation to bid), or the act of soliciting a quotation.

(6) "Purchase order." The form prescribed in certain instances by the purchasing agent for the procurement, lease or lease/purchase of supplies, materials, equipment or services.

(7) "Contract." A formal, written agreement between the Town of Huntingdon and the provider of supplies, materials, equipment or services to the town.

(8) "Competitive bidding." The process of obtaining price quotations from various sources for required supplies, materials, equipment or services by use of standardized specifications and invitations to submit quotations for same.

(9) "Invitation to bid." The procedure of submitting request for quotations to various sources for the proposed procurement of supplies, materials, equipment or services. (same as invitation to submit quotation.)

(10) "Public advertisement." The act of placing an advertisement in the town's official newspaper, or other media as may be required, announcing the intent of the town to purchase supplies, materials, equipment or services, and inviting public participation by submission of competitive bids. (1978 Code, § 1-1202)

5-703. General provisions. (1) The mayor shall be responsible for controlling the expenditures of the various agencies of the town government to accomplish maximum efficiency and economy.¹

(2) The recorder/director of finance shall be designated as the Purchasing Agent of the Town of Huntingdon, under the supervision of the mayor, who shall, in the absence of the purchasing agent, act in that capacity.

(3) The purchasing agent shall be responsible for the implementation and maintenance of the town's purchasing and procurement program, and shall prescribe such forms as may be required for administration of the program.

(4) The office of the director of finance shall be designated as the purchasing office of the town.

¹Charter reference: § 4.06.

(5) Except as set forth hereinbelow, all proposed purchases or procurements shall be with the prior review of the purchasing agent, to insure that all such actions are within the budgetary limitations of the activity concerned, and that funds are available to make payment for same.

(6) Each department supervisor is designated as the person responsible for the purchasing and procurement activities of his or her respective department and for coordination with the town's purchasing agent.

(7) No funds shall be obligated by any official or employee of the town except those herein designated. (1978 Code, § 1-1203)

5-704. Sole source procurement.¹ Any goods or services which may not be procured by competitive means because of the existence of a single source or because of a proprietary product shall be exempt from the competitive bidding process; however, the procurement of such goods or services will be with the prior written approval of the mayor. Further, a record of all such purchases shall be made by the purchasing agent which shall contain a list of those items so procured, the prices paid, the source from which procured, and the justification for the sole source procurement. The data in this report shall be furnished the council at its next subsequent meeting.

(1) Where a department of the town government has established a particular model/type of equipment for a specific application, subsequent additions to that system or parts required for maintenance and repair thereto, shall be classified as sole source procurement to insure that the integrity of the system is maintained. (1978 Code, § 1-1204)

5-705. Emergency procurement.² Competitive bidding procedures may be waived for purchases or leases of any supplies, materials or equipment for immediate delivery in actual emergencies arising from unforeseen causes, including delays by contractors; delays in transportation, and unanticipated volume of work; however, the emergency procurements of such items will be with the prior written approval of the mayor. A record of all such purchases shall be made by the purchasing agent which shall contain a list of the items so procured, the prices paid, the source(s) from which procured, and the justification for the emergency procurement. The data contained in this report shall be furnished the council at its next subsequent regular meeting. (1978 Code, § 1-1205)

¹Charter reference: § 4.07(d)(2).

²Charter reference: § 4.07(d)(3).

5-706. Real property procurement.¹ Purchases, leases or lease-purchase of real property are exempt from the competitive bidding process. The price or consideration for such procurements shall be negotiated subject to the final approval of the council. (1978 Code, § 1-1206)

5-707. Electricity, natural gas and telephones services. All electrical, natural gas and telephone and related services provided the town by regulated industries are exempt from the competitive bidding procedure. (1978 Code, § 1-1207)

5-708. Fuel (gasoline and diesel) procurement. Procurement of regular, leaded gasoline shall be by the competitive bidding process. The procurement of high-test, unleaded gasoline and diesel fuels shall be exempt from the bidding process until such time as the town obtains its' own bulk fuel storage tanks for these fuels, or the local suppliers agree to furnish 1,000 gallon storage facilities when they are the successful bidder. (1978 Code, § 1-1208)

5-709. Professional services contracts. Contracts for legal services, fiscal agents, auditors, financial advisors or advisory services, educational consultants, engineer consultants, and similar services by professional persons or groups of high ethical standards, shall not be based upon competitive bids, but shall be awarded by the council on the basis of recognized competence and integrity through review of past performance and interviews with prospective contractees, subject to a review of all such contracts by the town's attorney. (1978 Code, § 1-1209)

5-710. Insurance contracts. (1) Insurance for various entities of the town's government which is procured through a plan authorized and approved by any organization of governmental entities representing cities, towns and counties, such as, but not limited to, the Tennessee Municipal League Insurance Pool, may be contracted for without public advertising, competitive bidding, or invitation to submit quotations, All contracts awarded for such insurance shall be subject to approval of the council.²

(2) Insurance for various entities of the town's government which are procured through private or for-profit entities, such as commercial insurance companies, for casualty, liability, inland marine, property, life and health and accident insurances, will be obtained by public advertisement and/or invitations to submit proposals. All contracts awarded for such insurance shall be subject

¹Charter reference: § 4.07(d)(5).

²Charter reference: § 4.07(g).

to approval of the council.¹ Insurance policies thus contracted will usually be for a term or three (3) years, with annual premium adjustments as approved by the council. (1978 Code, § 1-1210)

5-711. Intergovernmental purchasing. (1) Purchases by the town of supplies, materials, equipment and/or services for other local governmental entities may be made upon request from said entities; however, the procurement shall be made on the same terms and under the same rules and regulations as regular purchases by the town. The cost of all such purchases shall be borne by the requesting entity.²

(2) Purchases by the town of supplies, materials, equipment and/or services from or through any centralized purchasing or procurement agency of any local governmental entity, or of the state or federal government shall be without public advertising or competitive bidding.³ (1978 Code, § 1-1211)

5-712. Contractual services from non-profit groups. Contracts for supplies, materials and/or services from non-profit corporations, such as, but not limited to, the Local Government Data Processing Corporation, whose purpose, or one of whose purposes, is to provide goods or services specifically to municipalities shall be exempt from public advertising or competitive bidding.⁴ (1978 Code, § 1-1212)

5-713. Purchases of less than \$4,000.00. Supplies and materials, the total cost of which does not exceed four thousand dollars (\$4,000.00), and which are required for day-to-day operations, maintenance and repairs in and by the various departments and agencies of the town may be purchased or procured directly from those firms or businesses where the town maintains accounts by the department or activity supervisor concerned so long as such purchases or procurements are within the budget limitations of the department or activity concerned. (1978 Code, § 1-1213, as replaced by Ord. #493, Aug. 2006)

5-714. Purchases of less than \$10,000.00 but over \$4,000.00. Purchase, procurement, lease and/or lease-purchase agreements for supplies, materials, equipment and/or services which will cost in the aggregate more than four thousand dollars (\$4,000.00) but less than ten thousand dollars

¹Charter reference: § 4.07(h).

²Charter reference: § 4.07(i).

³Charter reference: § 4.07(j).

⁴Charter reference: § 4.07(k).

(\$10,000.00) shall be exempt from public advertising and/or formal competitive bidding.

(1) Purchase or procurement of such items shall be made through the use of telephonic or personal request for quotation of price for same, utilizing the form prescribed by the purchasing agent. Such purchases or procurements may be made by the supervisor of the department of activity concerned, subject to a review by the purchasing agent of the quotations and determination of budget limitations, if any, and the written approval of the mayor.

(2) Upon approval of the quotation, the purchasing agent shall issue a purchase order for same. (Ord. #394, Oct. 1997, as amended by Ord. #422, Oct. 1999, and replaced by Ord. #493, Aug. 2006)

5-715. Purchases of more than \$10,000.00. The purchase or procurement of supplies, materials, equipment, and/or services which individually cost more than ten thousand dollars (\$10,000.00), or if when normally procured in lots of two (2) or more during any fiscal year total more than ten thousand dollars (\$10,000.00), shall be subject to competitive bidding and public advertisement. Where possible, bids will be solicited from a minimum of three (3) suppliers.

(1) The supervisor of the department or activity requiring the purchase or procurement of such items shall submit details of the supplies, materials, equipment and/or services to be obtained, to include technical specifications where necessary, to the mayor for his approval. Upon approval by the mayor, and subject to budget allocations and availability of funds, the mayor shall refer the request for such purchase or procurement to the council for their review and approval.

(2) Upon approval of the proposed purchase or procurement by the council, the purchasing agent shall issue the appropriate invitations to submit bids or quotations and place the required public advertisement in the town's official newspaper, and such other media as may be appropriate, which shall contain all relevant data as to the town's bidding process and reservations as to acceptance or rejection of bids, including specific information as to the bid opening time and procedure.

(3) All qualified bids, quotations and/or proposals (here-in-after referred to collectively as "Bids") received in response to an advertisement and/or invitation to submit bids, shall at the time and place as indicated in the public notice and/or solicitation of bids, which shall normally be during regular office hours and in the council room of the Huntingdon Municipal Building, be publicly opened by the mayor or his designated representative and the results read aloud. Thereupon, the official conducting the bid opening shall make a statement declaring the apparent low bidder, and informing all persons present that all duly qualified bids will be accepted for tabulation; review of all bid documents for compliance with advertised specifications, and referral to the town council at their next subsequent regular meeting for their review, approval or disapproval, and the authorization of any procurement contracts. A minimum of three (3) officials of the town shall be present at all public bid openings. The appropriate official of the town shall record the minutes of all

such public bid openings, which shall be filed with the appropriate procurement documentation. (1978 Code, § 1-1216, as amended by Ord. #394, Oct. 1997, Ord. #422, Oct. 1999, and Ord. #493, Aug. 2006)

5-716. Limitations and penalties. (1) All purchases made from funds of the town shall be made within the limits of the approved budgets and within the appropriation of the department, agency or activity for which the purchase is made.

(2) No obligation of funds of the town shall be made except in compliance with the provisions of this chapter, or of the town's charter.

(3) All formal contract documents entered into by the town shall be reviewed by the town attorney prior to final execution.

(4) Any contract or agreement made in violation of the provisions of this chapter; the town charter, or other ordinances of the town shall be void and no expenditure shall be made thereunder. Every officer and employee who shall knowingly make or participate in any such contract or agreement, or authorize or make any expenditure thereunder may be liable to the town for the full amount.¹ (1978 Code, § 1-1217)

5-717. Purchases of property at public auctions. The mayor and/or the town council may authorize the purchase of new or secondhand articles or equipment or other materials, supplies, commodities and equipment at any publicly advertised auction. Purchases at any publicly advertised auction do not require public advertisement and competitive bidding process.

(1) Request for purchases. All purchases shall be made within the limits of the approved budgets and within the appropriation of the department, agency, or activity for which the purchase is made. All request for items to be purchased shall be written request and submitted to the purchasing agent for review. Such request must be made by the supervisor of the department of the activity concerned, subject to review of budget limitations, if any, and require written approval of the mayor. Request must identify the auction at which the items are to be purchased, time and place of the auction, items to be acquired, and estimated cost of each item to be purchased.

(2) Approval of purchase. Upon review and approval of such request, prior written approval for authorization to bid is required. Said written authorization shall indicate the maximum bid limit for the item or items to be purchased. The mayor shall be authorized to give prior written approval for purchases up to the \$5,000.00 limitations with request for purchases over the \$5,000.00 limitation requiring approval of the town council.

(3) Authorized agent. The mayor shall appoint the purchasing agent or a designated representative of the town to make such purchases. No

¹Charter reference: § 4.08.

purchases shall be made by the purchasing agent or a designated representative without prior written approval by the mayor or town council. Any individual violating this provision may be held liable to the town for the full amount of the purchase.

(4) Report of procurement. Upon purchases being made, the purchasing agent shall report to the town council a description of the purchase, the auction where the items were purchased, the purchase price, and the vendor of the purchased item. (Ord. #394, Oct. 1997)

CHAPTER 8

HOTEL/MOTEL TAX¹

SECTION

- 5-801. Introduction of act.
- 5-802. Definitions.
- 5-803. Authorization to levy tax.
- 5-804. Proceeds.
- 5-805. Tax to be collected; when to be refunded.
- 5-806. Remittance.
- 5-807. Authorized collector.
- 5-808. Tax must be collected.
- 5-809. Delinquent taxes.
- 5-810. Operator to keep records.
- 5-811. Additional powers of recorder; taxpayer remedies.
- 5-812. Proceeds.
- 5-813. Applicability.
- 5-814. Severability.

5-801. Introduction of act. An act relative to the levy of a privilege tax on the occupancy of any rooms, lodgings or accommodations furnished to transients by any hotel, inn, tourist camp, tourist court, tourist cabin, motel or any place in which rooms, lodgings, or accommodations are furnished to transients for a consideration in the Town of Huntingdon. (Public Acts of 1998, ch. 128 and Ord. #398, April 1998)

5-802. Definitions. As used in this act unless the context otherwise requires:

(1) "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel valued in money whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever. Nothing in this definition shall be construed to imply that consideration is

¹The first section of Ordinance No. 398 (April 1998) provides:

"NOW, THEREFORE, BE IT RESOLVED, the Mayor and Town Council desire to proceed with the ratification to levy a privilege tax in the Town of Huntingdon as approved by House Bill 2798 dated April 3rd, 1998, a copy of which is hereto attached and made a part of this Ordinance as though the same were copied fully herein, to be adopted as, Chapter 8. Hotel/Motel Tax, Title 5. Municipal Finance and Taxation, of the Town of Huntingdon Municipal Code."

charged when the space provided to the person is complimentary from the operator and no consideration is charged to or received from any person.

(2) "Hotel" means any structure or space, or any portion thereof, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist camp, tourist court, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration.

(3) "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings or accommodations in any hotel.

(4) "Operator" means the person operating the hotel whether as owner, lessee or otherwise.

(5) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

(6) "Recorder" means the recorder of the Town of Huntingdon.

(7) "Town of Huntingdon" or "town" means within the corporate limits of the Town of Huntingdon, Tennessee.

(8) "Transient" means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings or accommodations in a hotel for a period of less than thirty (30) continuous days. (Public Acts of 1998, ch. 128, § 1, and Ord. #398, April 1998)

5-803. Authorization to levy tax. The legislative body of the Town of Huntingdon is authorized to levy a privilege tax upon the privilege of occupancy in any hotel of each transient in the amount of five percent (5%) of the consideration charged by the operator. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided in this act. (Public Acts of 1998, ch. 128, § 2, and Ord. #398, April 1998)

5-804. Proceeds. The proceeds received by the town from the tax shall be retained by the town and deposited into the general fund of the town, to be designated and used for such purposes as specified by resolution of the town council (Public Acts of 1998, ch. 128, § 3, and Ord. #398, April 1998)

5-805. Tax to be collected; when to be refunded. Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of the hotel and given directly or transmitted to the transient. Such tax shall be collected by such operator from the transient and remitted to the Town of Huntingdon.

When a person has maintained occupancy for thirty (30) continuous days, that person shall receive from the operator a refund or credit for the tax previously collected or charged to that person, and the operator shall receive

credit for the amount of such tax if previously paid or reported to the town. (Public Acts of 1998, ch. 128, § 4, and Ord. #398, April 1998)

5-806. Remittance. (1) The tax levied shall be remitted by all operators who lease, rent or charge for any rooms, lodgings, spaces or accommodations in hotels within the town to the recorder or such other officer as may by resolution be charged with the duty of collection thereof, such tax to be remitted to such officer not later than the twentieth (20th) day of each month for the preceding month. The operator is required to collect the tax from the transient at the time of the presentation of the invoice for such occupancy as may be the custom of the operator, and if credit is granted by the operator to the transient, then the obligation to the town entitled to such tax shall be that of the operator.

(2) For the purpose of compensating the operator for remitting the tax levied by this act, the operator shall be allowed two percent (2%) of the amount of the tax due and remitted to the recorder in the form of a deduction in submitting the report and paying the amount due by such operator, provided the amount due was not delinquent at the time of payment. (Public Acts of 1998, ch. 128, § 5, and Ord. #398, April 1998)

5-807. Authorized collector. The recorder, or other authorized collector of the tax, shall be responsible for the collection of such tax and shall place the proceeds of such tax in accounts for the purposes stated herein. A monthly tax return shall be filed under oath with the recorder by the operator with such number of copies thereof as the recorder may reasonably require for the collection of such tax. The report of the operator shall include such facts and information as may be deemed reasonable for the verification of the tax due. The form of such report shall be developed by the recorder and approved by the town council prior to use. The recorder shall audit each operator in the town at least once a year and shall report on the audits made on a quarterly basis to the town council.

The town council is authorized to adopt resolutions to provide reasonable rules and regulations for the implementation of the provisions of this act, including the form for such reports. (Public Acts of 1998, ch. 128, § 6, and Ord. #398, April 1998)

5-808. Tax must be collected. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator or that it will not be added to the rent, or that if added, any part will be refunded. (Public Acts of 1998, ch. 128, § 7, and Ord. #398, April 1998)

5-809. Delinquent taxes. Taxes collected by an operator which are not remitted to the recorder on or before the due dates are delinquent. An operator is liable for interest on such delinquent taxes from the due date at the rate of

twelve percent (12%) per annum, and is liable for an additional penalty of one percent (1%) for each month or fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax herein required to be remitted. Each occurrence of willful refusal of an operator to collect or remit the tax or willful refusal of a transient to pay the tax imposed is unlawful and shall be punishable by a civil penalty not in excess of fifty dollars (\$50.00). (Public Acts of 1998, ch. 128, § 8, and Ord. #398, April 1998)

5-810. Operator to keep record. It is the duty of every operator liable for the collection and payment to the town of any tax imposed by this act to keep and preserve for a period of three (3) years all records necessary to determine the amount of tax due and payable to the town. The recorder has the right to inspect such records at all reasonable times. (Public Acts of 1998, ch. 128, § 9, and Ord. #398, April 1998)

5-811. Additional powers of recorder; taxpayer remedies. The recorder in administering and enforcing the provisions of this act has as additional powers, those powers and duties with respect to collecting taxes as provided in title 67 of Tennessee Code Annotated or otherwise provided by law.

Upon any claim of illegal assessment and collection, the taxpayer has the remedies provided in Tennessee Code Annotated, title 67; it is the intent of this act that the provisions of law which apply to the recovery of state taxes illegally assessed and collected shall also apply to the tax levied under the authority of this act. The provisions of Tennessee Code Annotated, section 67-1-707, shall be applicable to adjustments and refunds of such tax.

With respect to the adjustment and settlement with taxpayers, all errors of town taxes collected by the recorder under authority of this act shall be refunded by the town from the general fund upon approval of the town council.

Notice of any tax paid under protest shall be given to the recorder and the resolution authorizing levy of the tax shall designate a town officer against whom suit may be brought for recovery. (Public Acts of 1998, ch. 128, § 10, and Ord. #398, April 1998)

5-812. Proceeds. The proceeds of the tax authorized by this act shall be allocated to and placed in the general fund of the Town of Huntingdon to be used for the purposes stated in section 5-804. (Public Acts of 1998, ch. 128, § 11, modified, and Ord. #398, April 1998)

5-813. Applicability. The tax levied pursuant to the provisions of this act shall only apply in accordance with the provisions of Tennessee Code Annotated, section 67-4-1425. (Public Acts of 1998, ch. 128, § 12, and Ord. #398, April 1998)

5-814. Severability. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable. (Public Acts of 1998, ch. 128, § 13, and Ord. #398, April 1998)

TITLE 6

LAW ENFORCEMENT

CHAPTER

1. POLICE AND ARREST.
2. WORKHOUSE.

CHAPTER 1

POLICE AND ARREST¹

SECTION

- 6-101. Policemen subject to chief's orders.
- 6-102. Policemen to preserve law and order, etc.
- 6-103. Policemen to wear uniforms and be armed.
- 6-104. When policemen to make arrests.
- 6-105. Policemen may require assistance in making arrests.
- 6-106. Disposition of persons arrested.
- 6-107. Police department records.
- 6-108. Policy and procedures manual adopted.

6-101. Policemen subject to chief's orders. All policemen shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (1978 Code, § 1-401)

6-102. Policemen to preserve law and order, etc. Policemen shall preserve law and order within the town. They shall patrol the town and shall assist the town court during the trial of cases. Policemen shall also promptly serve any legal process issued by the town court. (1978 Code, § 1-403)

¹Municipal code references

Director of public safety: title 1, chapter 4.

Emergency assistance: title 20, chapter 2.

Traffic citations, etc.: title 15, chapter 7.

Please also note that Ord. #327, Sept. 1993, provides: "**BE IT FURTHER ORDAINED** by said Town Council that throughout the Huntingdon Municipal Code (Title 1 thru Title 20), any and/or all references to the "Police Chief", "Chief of Police" or "Chief, Police Department", and/or "Fire Chief" or "Chief, Fire Department", or other such references to the head of these departments, shall also be deemed a reference to the "Director of Public Safety"."

6-103. Policemen to wear uniforms and be armed. All policemen shall wear such uniform and badge as the town council shall authorize and shall carry a service pistol and billy club at all times while on duty unless otherwise expressly directed by the chief for a special assignment. (1978 Code, § 1-404)

6-104. When policemen to make arrests. Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a policeman in the following cases:

(1) Whenever he is in possession of a warrant for the arrest of the person.

(2) Whenever an offense is committed or a breach of the peace is threatened in the officer's presence by the person.

(3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (1978 Code, § 1-405)

6-105. Policemen may require assistance in making arrests. It shall be unlawful for any person willfully to refuse to aid a policeman in making a lawful arrest when such a person's assistance is requested by the policeman and is reasonably necessary to effect the arrest. (1978 Code, § 1-406)

6-106. Disposition of persons arrested. Unless otherwise authorized by law, when a person is arrested he shall be brought before the town court for immediate trial or allowed to post bond. When the arrested person is drunk or when the town judge is not immediately available, or the alleged offender does not post the required bond, he shall be confined. (1978 Code, § 1-407)

6-107. Police department records. The police department shall keep a comprehensive and detailed daily record, in permanent form, showing:

(1) All known or reported offenses and/or crimes committed within the corporate limits.

(2) All arrests made by policemen.

(3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department. (1978 Code, § 1-408)

6-108. Policy and procedures manual adopted. In order to define and establish policies and procedures for the police department, the Huntingdon Police Department Policy and Procedures Manual¹ is hereby adopted by reference and made a part of this code as if fully set out herein. Three (3) copies

¹See Ord. #269, of record in the recorder's office, for an amendment to this manual.

of this manual have been placed on file in the recorder's office where they are available for public use and inspection. (1978 Code, § 1-402)

CHAPTER 2**WORKHOUSE****SECTION**

6-201. County workhouse to be used.

6-202. Inmates to be worked.

6-203. Compensation of inmates.

6-201. County workhouse to be used. The county workhouse is hereby designated as the municipal workhouse, subject to such contractual arrangement as may be worked out with the county. (1978 Code, § 1-601)

6-202. Inmates to be worked. All persons committed to the workhouse, to the extent that their physical condition shall permit, shall be required to perform such public work or labor as may be lawfully prescribed for the county prisoners. (1978 Code, § 1-602)

6-203. Compensation of inmates. Each workhouse inmate shall be allowed five dollars (\$5.00) per day as credit toward payment of the fines and costs assessed against him.¹ (1978 Code, § 1-603)

¹State law reference

Tennessee Code Annotated, § 40-24-104.

TITLE 7**FIRE PROTECTION AND FIREWORKS¹****CHAPTER**

1. FIRE DISTRICT.
2. FIRE CODE.
3. FIRE DEPARTMENT.
4. FIRE SERVICE OUTSIDE TOWN LIMITS.
5. FIREWORKS.

CHAPTER 1**FIRE DISTRICT****SECTION**

7-101. Fire limits described.

7-101. Fire limits described. The fire limits of the Town of Huntingdon shall be all of that area located within the corporate limits of the town except as otherwise provided by the zoning ordinance or by temporary directive of the chief of the fire department. (1978 Code, § 7-101)

¹Municipal code reference

Building, utility and housing codes: title 12.

Director of public safety: title 1, chapter 4.

Emergency assistance: title 20, chapter 2.

Ord. #327, (Sept. 1993) states: "**BE IT FURTHER ORDAINED** by said Town Council that throughout the Huntingdon Municipal Code (Title 1 thru Title 20), any and/or all references to the "Police Chief", "Chief of Police" or "Chief, Police Department", and/or "Fire Chief" or "Chief, Fire Department", or other such references to the head of these departments, shall also be deemed a reference to the "Director of Public Safety"."

CHAPTER 2

FIRE CODE¹

SECTION

- 7-201. Fire code adopted.
- 7-202. Definitions.
- 7-203. Storage of explosives and blasting agents.
- 7-204. Storage of flammable liquids above ground.
- 7-205. Bulk storage of liquefied petroleum gas.
- 7-206. Establishment of routes for vehicles transporting explosives, etc.
- 7-207. Routes for transportation of hazardous chemicals.
- 7-208. Fire lanes.
- 7-209. Modifications.
- 7-210. Appeals.
- 7-211. Hearing for permit involving new materials.
- 7-212. Penalties.

7-201. Fire code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 to 6-54-504, inclusive, and for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, the Standard Fire Prevention Code,² 1994 edition with 1995 revisions, as adopted by the Southern Building Code Congress International, Inc., is hereby adopted by reference and included herein as a part of this code. Pursuant to the requirement of Tennessee Code Annotated, §§ 6-54-502 and 6-54-503, one (1) copy of said fire prevention code has been filed with the recorder and is available for public use and inspection. Said fire prevention code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits except that Standard Fire Code, chapter 20, Fireworks, is deleted, as this subject is regulated separately by chapter 4, title 7, HMC. (1978 Code, § 7-201, modified)

7-202. Definitions. (1) Where the term bureau of fire prevention is used in the fire prevention code, it shall be held to mean the Huntingdon Fire Department.

¹Municipal code reference

Building, utility and housing codes: title 12.

²Copies of this code are available from the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213.

(2) Wherever the terms chief of the bureau of fire prevention or fire official are used in the fire prevention code, they shall be held to mean Chief of the Huntingdon Fire Department.

(3) Whenever the word municipality is used in the fire prevention code, it shall be held to mean the Town of Huntingdon.

(4) Whenever the term "corporation counsel" is used in the fire prevention code, it shall be held to mean the attorney for the Town of Huntingdon.

(5) Whenever the term "Building Official" is used in the fire prevention code it shall be held to be the Codes Enforcement Officer of the Town of Huntingdon and/or those person or persons duly designated by the mayor or town council to enforce the provisions hereof.

(6) So much of paragraph 105.1 of the Standard Fire Prevention Code as reads "five members" is amended to read "three (3) members." (1978 Code, § 7-202)

7-203. Storage of explosives and blasting agents. Storage of explosives and blasting agents within the corporation limits of the Town of Huntingdon is prohibited; therefore, the limits referred to in § 1901.4.2 of the fire prevention code include the whole town. Temporary storage of said materials shall be by special permit only, as issued by the chief of the fire department. (1978 Code, § 7-203)

7-204. Storage of flammable liquids above ground. (1) The limits referred to in § 902.1.1 of the fire prevention code in which storage of flammable liquids in outside aboveground tanks is prohibited are hereby established as follows:

Storage of such liquids shall be confined to those areas designated for said storage as outlined in the Huntingdon zoning ordinance, and pursuant to a permit issued for said storage by the chief of the fire department.

(2) The limits referred to in § 906.1 of the fire prevention code, in which new bulk plants for flammable or combustible liquids are prohibited are hereby established as follows: The location and establishment of new bulk plants for the storage of such liquids shall be confined to those areas designated for said storage as outlined in the zoning ordinance, and pursuant to a permit issued for such location by the chief of the fire department. (1978 Code, § 7-204)

7-205. Bulk storage of liquefied petroleum gas. The limits referred to in § 1701.4.2 of the fire prevention code, in which bulk storage of liquefied petroleum gas is restricted, are hereby established as follows:

Storage of such liquids shall be confined to those areas designated for said storage as outlined in the Huntingdon zoning ordinance, and pursuant to a permit for said storage by the chief of the fire department. (1978 Code, § 7-205)

7-206. Establishment of routes for vehicles transporting explosives, etc. The routes referred to in § 1903.2.11 of the fire prevention code for vehicles transporting explosives and blasting agents are hereby established as follows:

All such vehicles entering the Town of Huntingdon on any of the US, state or local routes shall proceed directly to the nearest point of access to the SR-1/SR-11 By-pass, and shall remain on these by-passes until they exit the town. In no case shall such vehicles be on any street, road or highway within the area of the town encompassed by these by-passes without the expressed authorization of the chiefs of the fire and police departments. No vehicle transporting explosives or blasting agents shall enter any other routes, nor shall they stop or park within the corporation limits of the Town of Huntingdon without the expressed permission of the chief of the police department. (1978 Code, § 7-206)

7-207. Routes for transportation of hazardous chemicals. Vehicles transporting hazardous chemical and other dangerous articles shall use the established heavy vehicle routes (truck routes) as established by § 15-122 hereof. (1978 Code, § 7-207)

7-208. Fire lanes. When the fire lanes referred to in § 602.6 of the fire prevention code become necessary and available, they shall be established by the chief of the fire department, and appropriate traffic signs shall be posted thereon. (1978 Code, § 7-208)

7-209. Modifications. (1) The Unified Board of Codes Adjustments and Appeals shall have power to modify any of the provisions of the fire prevention code upon application in writing by the owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such modification when granted or allowed and the decision of Unified Board of Codes Adjustments and Appeals thereon shall be entered upon the records of the department and a signed copy shall be furnished the applicant. Section 105 of the fire prevention code is hereby deleted.

(2) The designation of "fire lanes" or "fire access roadways" by the "Fire Official", under the provisions of § 602.6 of the Standard Fire Prevention Code, shall be subject to the prior review and approval of the Council. (1978 Code, § 7-209)

7-210. Appeals. Whenever the chief of the fire department shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the

applicant may appeal from the decision of the chief of the fire department to the Unified Board of Codes Adjustments and Appeals within 30 days from the date of the decision appealed. (1978 Code, § 7-210)

7-211. Hearing for permit involving new materials. The Unified Board of Codes Adjustments and Appeals shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes, or occupancies which shall require permits, in addition to those now enumerated in said code. The chief of the fire department shall post such list in a conspicuous place in his office and distribute copies thereof to interested persons. (1978 Code, § 7-211)

7-212. Penalties. It shall be unlawful for any person or firm to violate or fail to comply with any provision of the fire prevention code as herein adopted by reference, and such violation and/or failure to comply therewith shall be deemed a misdemeanor. (1978 Code, § 7-212)

CHAPTER 3

FIRE DEPARTMENT¹

SECTION

7-301. Establishment, equipment, and membership.

7-302. Objectives.

7-303. Organization, rules, and regulations.

7-304. Chief to be assistant to state officer.

7-301. Establishment, equipment, and membership. There is hereby established a fire department to be supported and equipped from appropriations by the town council. This department shall be composed of both regular full time employees of the town, and a volunteer fire-fighter component. All apparatus, equipment, and supplies shall be purchased or procured pursuant to the town's purchasing and procurement regulations as administered by the town's purchasing officer, and shall be and remain the property of the town. The fire department shall be composed of a chief employed by the mayor with the advice and consent of the town council, and such number of physically-fit subordinate officers and fire fighters as authorized in the annual budget document and related personnel manning authorizations, who shall be employed in accordance with the town's personnel management regulations, and such volunteer fire fighters as hereinafter provided for. The chief shall report directly to, and be under the direct operational control of the mayor. (1978 Code, § 7-301)

7-302. Objectives. The Huntingdon fire department shall have as its objectives:

- (1) To prevent uncontrolled fires from starting.
- (2) To prevent the loss of life and property because of fires.
- (3) To confine fires to their places of origin.
- (4) To extinguish uncontrolled fires.
- (5) To prevent loss of life from asphyxiation or drowning.
- (6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable. (1978 Code, § 7-302)

7-303. Organization, rules, and regulations. (1) Purpose: The primary purpose for the creation and maintenance of the Huntingdon Fire Department is to provide adequate, efficient, professional and effective fire prevention and fire protection services for the citizens of the Town of

¹Municipal code reference

Special privileges with respect to traffic: title 15, chapter 2.

Huntingdon on a twenty-four hour basis. The purpose of this regulation is to provide managerial, administrative and operational guidance to that department.

(2) Concept: The operation, administration and training of the fire department is based on the concept of an integrated force of trained fire fighters composed of both a regular and a volunteer component.

(a) Regular component: This component shall consist of regular, full-time, paid employees of the town and shall be a chief, who is employed by the mayor with the advice and consent of the town council, and three (3) separate fire-fighting teams, each staffed with one (1) captain as officer-in-charge, and one (1) lieutenant as second-in-command and pumper operator. (The personnel manning levels may vary from year to year as established for the fiscal year by the annual budget documents.)

(b) Volunteer component: This component shall consist of twenty-two (22) volunteer fire fighters. They shall function as does any normal volunteer/reserve component of an active regular fire service, and shall respond to activation (fire calls or fire drills) as required. They shall be assigned to one of the three fire-fighting teams. One volunteer on each team shall be elected by the other volunteer members of that team as "lieutenant" (with the advice and consent of the chief and the mayor), who shall serve under the direct supervision of the team captain. Two of the volunteer fire fighters on each team shall be cross trained as "pumper operators." One volunteer fire fighter, who shall be professionally qualified, shall be elected by the volunteer component as "assistant chief" (subject to the advice and consent of the chief and the mayor). He shall serve as the principal representative of the volunteer component to the chief and to the mayor.

(3) Personnel:

(a) Regular component: The number of positions and current wage and or salary levels shall be as prescribed by the mayor with the advice and consent of the town council, as set forth in the annual budget documents and related personnel manning authorizations. As of Fiscal Year 1985, the Huntingdon Fire Department shall be organized as follows:

(i) There shall be a full-time, paid, Chief, Huntingdon Fire Department. He shall serve as the chief officer responsible for the fire protection and fire prevention services for the town. He shall also be responsible for the day-to-day administration, operation and training of all fire department personnel, both regular and volunteers, under the guidance and regulations of the mayor and town council, and such state or federal regulations as may be mandated upon the town. He shall also function as the fire marshal for the town, as and where may be required.

(ii) There shall be three (3) fire-fighting teams. Each team shall be composed of two (2) regular fire fighters. One shall be designated "Captain" and shall be in command of the team. The other shall be designated "lieutenant," and he shall be primarily in charge of the fire apparatus.

(b) Volunteer component: This auxiliary force shall be of such number, positions and remuneration for active duty periods as established and authorized by the annual budget documents and related personnel manning levels and wage/salary determinations for that fiscal year. At the present time (FY-85), the volunteer component consist of twenty-two (22) fire fighters who serve on a volunteer status as their regular employments will permit. They shall be organized as follows:

(i) One senior, professionally qualified, volunteer fire fighter, with the advice and consent of the chief and the mayor, shall be elected by the volunteer fire fighters as "assistant chief" (see paragraph (2) (b), above). He will be directly responsible to the chief.

(ii) The remaining twenty-one (21) volunteers shall be assigned to one of the three fire-fighting teams, seven to each team. The volunteers on each team may elect, with the advice and consent of the chief and the mayor, one of their members to serve as team "lieutenant," who shall be responsible for the supervision of the volunteers on each team, under the supervision and control of the team captain or the assistant chief.

(iii) In the event of a vacancy in the regular employees of the fire department, a volunteer fire fighter shall be given preferential consideration in the filling of such vacancy.

(c) Personnel qualifications:

(i) Regular components: The prerequisites for employment of personnel as regular, full-time employees of the Huntingdon Fire Department shall be as established by the town's personnel management program.

(ii) Volunteer components: Each applicant for enlistment into the volunteer component of the fire department shall complete and submit an application for same on such forms as are prescribed by the Department of Finance and Administration. All applications will be duly considered by an ad hoc committee composed of the mayor, fire chief and the assistant chief. Each applicant for such membership shall meet the following minimum prerequisites:

(A) Shall be at least eighteen (18) years of age and less than sixty-five (65) years of age.

(B) Shall be in good physical and mental condition, and possess the necessary physical strength and mental

stability to properly function in a hazardous and critical situation. A physical examination shall be required of each applicant prior to actual acceptance into the volunteer component, which shall be at the town's expense. Performance records and physical condition shall be subject to review after a six (6) month probationary period prior to final confirmation as a volunteer member of the fire department.

(C) Shall be of good moral character, and shall not have been convicted of a felony, nor other crime or misdemeanor which may reflect unfavorably upon the reputation of the town.

(D) Shall have regular employment of such nature that the applicant can be reasonably expected to respond to fire calls during working hours.

(E) Shall be willing to submit to the rules and regulations of the Town of Huntingdon and/or the Huntingdon Fire Department.

(F) Shall be a resident of the Town of Huntingdon, or reside within five (5) road miles of the town limits.

(G) Shall be willing to participate in regularly scheduled periods of training.

(H) Shall be willing to accept accountability and responsibility for the maintenance of all items of accountable uniforms or equipment issued thereto.

(d) Personal insurance protection: The Town of Huntingdon will provide each volunteer fire fighter, as well as the regular fire fighters, an insurance plan which shall provide medical, disability, death and/or dismemberment coverage, as approved and funded by the town council without cost to the volunteers.

(i) As full-time employees of the town, all regular fire fighters are provided with these coverages through the town's employee group hospitalization plan and workmen's compensation insurance; however, the "special risk" insurance, which is issued especially for volunteer fire fighters will also provide coverage to the regulars at the same cost.

(ii) The volunteer fire fighters are also covered under the town's workmen's compensation insurance; however, the coverages available under this policy as pertains to the volunteer fire fighter other than the medical expenses are minimal, e.g, disability income, etc. Therefore, a special "Volunteer Fire Fighters Blanket Accident Policy" will be provided the volunteers at no cost by the town. This policy will provide both "accidental death and dismemberment" and "disability income" protection to the

volunteer fire fighter (as well as the regulars). A copy of this insurance policy will be provided each fire fighter, volunteer and regular, by the Department of Finance and Administration, upon issuance of same.

(4) Training: The Chief, Huntingdon Fire Department, shall be responsible for the professional technical training of all members of the department, both regulars and volunteers. He shall develop and maintain the necessary training programs, schedules and proficiency records as required by the laws of the town and the State of Tennessee, and as recommended by the National Fire Protection Codes (NFPA), or the International Fire Service Training Association (ASTA), the instructional arm of the NFPA, to assure that all fire-fighting personnel receive acceptable levels of technical training. When possible under manpower and budget limitations, volunteer fire fighters will be scheduled to attend formal fire training sponsored by the State of Tennessee or other governmental agency.

(a) It is the desired goal of the town that the volunteer component be fully integrated with the regular component so that they unite to form one cohesive, efficient and professionally competent fire-fighting unit, without any differentiating between the two components. They shall work as one team; train as one team, and will be in fact one composite team. Competition between the fire-fighting teams is a healthy and effective mode of training, and will be utilized where feasible, and proper recognition awarded where due and proper. When appropriate, individual fire fighters should be recommended to the mayor for awards for special recognition.

(b) Schedules of training periods shall be prepared sufficiently in advance to enable the volunteers to arrange their personal time.

(i) A training officer shall be designated by the chief from the membership of the fire department, who shall be directly responsible under the supervision of the chief to implement the training programs and to conduct training drills. The chief may designate one or more assistant training officers, as may be required. Individual training records will be maintained and one completed copy will be filed in the employee personnel file.

(c) Fire-fighting techniques developed through the training program and approved adaptable to the standard operating procedures of the Huntingdon Fire Department shall be incorporated into the departmental operating procedures, with the prior approval of the chief and the mayor, and implemented whenever possible by amendment to this section of the code.

(d) Payment for attendance at fire drills or other called training sessions for which payment is normally made, will not be made to any member of the fire department who is not present for the training, or who

absences himself prior to the conclusion of the training without the proper authorization.

(e) All officers of the fire department shall complete all phases of officer training within the first 12 months subsequent to their acceptance into the department.

(5) Operations: It should be needless to state specifically, but there shall be only one Fire Department for the Town of Huntingdon. One with a regular component and a volunteer component. It is recognized that the operation of a fire department, as is presently operated by the Town of Huntingdon, requires one single point of control, supervision and operation. This is accomplished by the position of Chief, Huntingdon Fire Department, who shall be the individual solely responsible to the mayor and town council for the operation, administration and training of the fire department. This responsibility cannot be shared with a non-regular, or volunteer member as that would not be consistent with good leadership and management principles and practices; however, the needs and requirements of those individuals who donate their time and efforts as members of the volunteer component of the fire department must be recognized. This need is fulfilled by the positions of "assistant chief" and of "lieutenant" on each of the teams.

(a) The Chief of the Huntingdon Fire Department is also, pursuant to Tennessee Code Annotated, § 68-102-108, designated as an Assistant to the Commissioner of Insurance of the State of Tennessee, and as such functions as a deputy fire marshal in and for the Town of Huntingdon, and is invested with all powers thereof as set forth in Tennessee Code Annotated, title 68, chapter 102, and will discharge all the duties and responsibilities required thereby.

(b) It shall also be his duty as Fire Marshal of the Town of Huntingdon to formulate, implement and maintain a fire prevention plan and program for the town, subject to the review and approval of the mayor and to conduct such fire inspections, and provide such programs of public instruction throughout the town to assure an active and effective fire prevention attitude within the community, and to correct any deficiencies noted, particularly within the area of industrial, commercial, business or public gathering places.

(i) He will also be responsible for the preparation of fire prevention and protection inspection schedules, lecture/instructional schedules, the results of fire and safety inspections, and the maintenance of an adequate records management program to document the program.

(ii) He will also be responsible for the conduct of fire inspections of the town's departments and activities on a quarterly basis and for the conduct of a minimum of one (1) fire drill per year in each department or activity, the results of which will be

transmitted to the mayor for his review and any corrective action required.

(6) Logistics: The chief of the fire department, as the supervisory official, shall be responsible for the provision and maintenance of the necessary equipment and apparatus to adequately support the fire prevention and fire protection programs of the town. In the event of a deficiency in such equipment or apparatus it shall be the responsibility of the chief to call such matters to the attention of the mayor and the town council for resolution.

(a) The chief of the fire department shall also be responsible for the preparation of the annual operating budget for his department, with the assistance of the mayor and director of finance.

(b) The chief of the fire department shall, with the approval of the mayor and town council, establish "Table of Clothing and Equipment" for each individual fire fighter. This table will indicate the type and quantity of individual clothing and equipment to be issued to each fire fighter. There will be one table for regular personnel and one table for volunteer personnel.

(c) Each fire fighter shall be issued a gratuitous issue of such clothing and equipment. Subject to the approval of the mayor and the town council, a system of periodic clothing maintenance allowance payments for expendable items of clothing and equipment will be established in coordination with the director of finance.

(d) A formal system of accountability shall be established within the fire department for the issuance, inspection, maintenance and disposition of each item of clothing and equipment. An inspection of all items of clothing and equipment shall be completed each six (6) months during the course of a regular fire drill. The department of finance and administration will provide such administrative support as may be needed. (1978 Code, § 7-303)

7-304. Chief to be assistant to state officer. As stated in § 7-303(5)(a) of this chapter, and pursuant to the requirements of Tennessee Code Annotated, § 68-102-108, the Chief, Huntingdon Fire Department, is designated as an Assistant to the Commissioner of Insurance of the State of Tennessee, and as such is subject to all the duties and responsibilities imposed by Tennessee Code Annotated, title 68, chapter 102; is invested with all the powers authorized therein, and shall be subject to the directions of the State Fire Prevention Commissioner in the execution of the provisions thereof. (1978 Code, § 7-305)

CHAPTER 4

FIRE SERVICE OUTSIDE TOWN LIMITS

SECTION

7-401. Authority to use fire equipment outside town limits.

7-401. Authority to use fire equipment outside town limits. The mayor and/or the fire chief of the Town of Huntingdon (the "town") are hereby authorized, in their discretion, and subject to the limitations imposed by § 1.04(t) of the town's charter, to respond to request to aid in the extinguishing of fires on private property within a reasonable distance from the town, or on property immediately adjacent to the town where there is a possibility of fire spreading to property within the corporate limits, under the following conditions:

(1) Calls may be responded to only with such personnel and apparatus which in the judgement of the mayor or fire chief can be safely sent without unduly impairing the fire protection capabilities within the town and when highway and weather conditions do not pose an unacceptable hazard to safety of personnel and equipment.

(2) The individual requesting such emergency services shall be responsible for any liabilities incurred by the response of the town's equipment to the request, and must compensate the town for any injuries suffered or incurred by the town's personnel while responding to such a request and while working at such fire or fires.

(3) The Town of Huntingdon has no duty or legal responsibility to respond to any request for such firefighting services outside the town's limits, and no such duty or legal responsibility shall be established or implied by this section.

(4) The individual requesting assistance must pay the actual cost of personnel and equipment provided in the responses, with a minimum service charge of three hundred dollars (\$300.00).

(5) All charges or fees for such services are to be paid to the town's department of finance and administration within fifteen (15) days of billing.

(6) The personnel of the town shall have extended to them to any geographic area necessary as a result of a request for emergency assistance the same jurisdiction, authority, rights, privileges, and immunities, including coverage under the workers's compensation laws, which they have in the town. (1978 Code, § 7-304)

CHAPTER 5

FIREWORKS

SECTION

- 7-501. Purpose.
- 7-502. Definition of terms.
- 7-503. Permits required for sale.
- 7-504. Business license required.
- 7-505. Permissible items of fireworks.
- 7-506. Conditions for sale and use of permissible articles.
- 7-507. Public displays--permits--regulations.
- 7-508. Retail sales of permissible articles--time limitations--exceptions.
- 7-509. Private use of permissible articles--time limitations--exceptions.
- 7-510. Regulations governing storing, locating or display of fireworks.
- 7-511. Unlawful acts in the sale and handling of fireworks.
- 7-512. Exceptions to application.
- 7-513. Penalty for violation.
- 7-514. Seizure and destruction of fireworks.
- 7-515. Requirements or compliance with state regulations not affected.

7-501. Purpose. The purpose of this chapter is to provide for the display, sale and use of certain fireworks for both private and public display within the corporate limits of the Town of Huntingdon, Tennessee within certain guidelines which shall provide for the general safety and welfare of the citizens thereof. (1978 Code, § 7-401)

7-502. Definition of terms. As used in this chapter the following terms shall have the meaning ascribed to them in this section unless clearly indicated otherwise.

(1) "Manufacturer," any person engaged in making, manufacture, or construction of fireworks of any type within the Town of Huntingdon or the State of Tennessee.

(2) "Distributor," any person engaged in the business of making sales of fireworks to any other person engaged in the business of reselling fireworks either as a jobber, wholesaler or retailer.

(3) "Wholesaler," any person engaged in the business of making sales of fireworks to any other person engaged in the business of making sales at retail.

(4) "Jobber," any person engaged in the business of making sales of fireworks to bona fide tourist for use outside the State of Tennessee.

(5) "Retailer," any person engaged in the business of making sales of fireworks to consumers.

(6) Singular and plural words used in the singular include the plural and the plural the singular.

(7) "Sale," an exchange of articles of fireworks for money and also includes barter, exchange, gift or offer thereof, and each such transaction made by any person, whether as a principal, proprietor, salesman, agent, association, copartnership, or one (1) or more individuals.

(8) "Person," includes any corporation, association, copartnership or one (1) or more individuals.

(9) "Permit," a permit is the written authority of the town fire marshal issued under the authority of HMC, title 7, or under the authority of the state fire marshal issued under the authority of Tennessee Code Annotated, §§ 68-104-106--68-104-116.

(10) "I.C.C. class C common fireworks," shall mean all articles of fireworks as are now or hereafter classified as "1CC Class C common fireworks" in the regulation of the Interstate Commerce Commission for the transportation of explosive and other dangerous articles.

(11) The term "special fireworks" shall mean all articles of fireworks that are classified as class B explosives in the regulation of the Interstate Commerce Commission and shall include all articles other than those classified as class C. (1978 Code, § 7-402)

7-503. Permits required for sale. It shall be unlawful for any person to manufacture, sell, offer for sale, ship or cause to be shipped into or within the Town of Huntingdon, except as herein provided, any item of fireworks, without first having secured the required applicable permit from the town fire marshal and also from the state fire marshal, possession of said permit being thereby a condition prerequisite to manufacturing, selling, or offering for sale, shipping or causing to be shipped any fireworks into or within the Town of Huntingdon, except as herein provided. This provision applies to non-residents as well as residents of the Town of Huntingdon.

(1) Prior to engaging in the sale within the Town of Huntingdon, Tennessee, or shipment into the Town of Huntingdon, of any fireworks each person must make application on forms secured from the town fire marshal and the state fire marshal for a permit or permits required under this chapter.

(2) The manufacture or bulk storage (storage other than limited amounts incidental to permitted retail sales or public displays) of fireworks within the corporate limits of the Town of Huntingdon is prohibited, and a violation of this section is unlawful and punishable under the provision of this chapter or the applicable state code.

(3) The decision of the town fire marshal as to what type of permit or permits shall be required of each person shall be final. No permit shall be issued to a person under the age of eighteen (18) years. All permits shall be for the calendar year and any fraction thereof and shall expire on December 31st of each year, two (2) days of grace shall be allowed holder of permits, after the

expiration thereof. Permits issued to retailers must be displayed near the point of sale and visible for public inspection. No permit provided for herein shall be transferable nor shall a person be permitted to operate under a permit issued to any person.

(4) In addition to charges for permits authorized to the state fire marshal for state permits, the town fire marshal is authorized and directed to charge for permits issued as follows: wholesaler \$10.00; retailer \$10.00; display \$10.00.

(5) A record of all sales, other than retail sales directly to private consumers, must be kept showing the names and address of purchasers. All fees collected for said permits shall be payable directly to the general fund of the town shall constitute general revenue. (1978 Code, § 7-403)

7-504. Business license required. The issuance of permits herein required does not replace or relieve any person of state, county or municipal licenses as now or hereafter provided by law. Before the issuance of any town business or privilege license, the town recorder shall require each applicant to submit adequate proof of possession of valid fireworks permits as issued by the town fire marshal and by the state fire marshal. (1978 Code, § 7-404)

7-505. Permissible items of fireworks. It shall be unlawful for an individual, firm, partnership, or corporation to possess, sell, or use within the Town of Huntingdon, or ship into the Town of Huntingdon, except as provided in § 7-506, any pyrotechnics, commonly known as "fireworks," other than the permissible items herein enumerated, except as herein provided. The permissible fireworks consist of ICC class C common fireworks only, and shall include those items enumerated in Tennessee Code Annotated, § 68-104-108, or which may be enumerated in said section. (1978 Code, § 7-405)

7-506. Conditions for sale and use of permissible articles. No permissible articles of common fireworks defined in Tennessee Code Annotated, § 68-104-108, shall be sold, offered for sale, or possessed within the town, or used in the Town of Huntingdon, except as here provided for public display, unless it shall be properly named to conform to the nomenclature of Tennessee Code Annotated, § 68-104-108, and unless it is certified as "common fireworks" on all shipping cases and by imprinting on the article or retail container, "ICC class C common fireworks," such imprinting to be of sufficient size and so positioned as to be readily recognized by law-enforcement authorities, and the general public. (1978 Code, § 7-406)

7-507. Public displays--permits--regulation. The public display of fireworks within the corporate limits of the Town of Huntingdon shall be governed by the provisions of Tennessee Code Annotated, § 68-104-107. Required permits for the controlled, public display of fireworks shall be obtained

from the state fire marshal and also from the town fire marshal and the town chief of police. (1978 Code, § 7-407)

7-508. Retail sale of permissible articles--time limitations--exceptions. Permissible items of fireworks, defined in Tennessee Code Annotated, § 68-104-108, may be sold at retail to residents of the Town of Huntingdon and used within the Town of Huntingdon from June 20th through July 5th, and from December 10th through January 2nd of each year only, except that the term "fireworks" shall not include toy pistols, toy canes, toy guns, or other devices in which paper caps containing twenty-five hundredth (25/100th) grains or less of explosive compounds are used, provided they are so constructed that the hand cannot come in contact with the cap when in place for exploding, and toy paper pistol caps which contain less than twenty-five hundredth (25/100th) grains of explosive compounds, cone, bottles, tube and other type serpentine pop-off novelties, nonpoisonous toy snakes, smoke sticks with report and sparklers, the sale and use of which shall be permitted at all times. (1978 Code, § 7-408)

7-509. Private use of permissible articles--time limitations--exceptions. Permissible items of fireworks, defined in Tennessee Code Annotated, § 68-104-108, may be stored, used and expended within the Town of Huntingdon by private citizens for their personal use and enjoyment during the periods June 20th through July 5th, and from December 10th through January 2nd of each year under the following restrictions.

(1) Permitted fireworks shall not be ignited, exploded, or otherwise used in any area or location of the town whereby persons or property may be endangered.

(2) Permitted fireworks shall not be ignited, exploded, or otherwise used within six hundred (600) feet of any business or storage area whereat or wherein flammable materials are sold, used or stored.

(3) Permitted fireworks may be ignited, exploded or otherwise used during the hours of 8:00 A.M. through 10:00 P.M., daily during the permitted periods.

(4) Small children, those under the age of ten (10) years, shall be supervised by adults when using permitted fireworks.

(5) If the use of permitted fireworks in a specific area of the town becomes a public nuisance or endangerment to private or public property in the opinion of the town fire marshal or the town chief of police, these officials or their authorized representatives are authorized and directed to prohibit said use therein or thereat. (1978 Code, § 7-409)

7-510. Regulations governing storing, locating or display of fireworks. Placing, storing, locating or displaying of fireworks in any window where the sun may shine through glass onto the fireworks so displayed or to

permit the presence of lighted cigars, cigarettes, or pipes within twenty-five (25) feet of where the fireworks are offered for sale is hereby declared unlawful and prohibited. At all places where fireworks are stored or sold, there must be posted signs with the words "FIREWORKS -NO SMOKING WITHIN 25 FEET" in letters not less than four (4) inches high.

(1) No fireworks shall be sold at retail at any location where paints, oils or varnishes are for sale or use unless kept in the original unbroken containers.

(2) No fireworks shall be stored, placed, located, sold or traded within fifty (50) feet of any other building, nor within one hundred (100) feet of a retail gasoline sales outlet (service station, market, or other such facility) or bulk petroleum storage or distribution facility. All measurement shall be from building-to-building, and not from property line-to-property line.

(3) The physical site proposed for the location of storage, placement or sale of permissible fireworks shall require the prior approval of the town fire marshall and the town chief of police previous to the issuance of any required permits and licenses. (1978 Code, § 7-410)

7-511. Unlawful acts in the sale and handling of fireworks. It shall be unlawful to offer for retail sale or to sell any fireworks to children under the age of ten (10) years, or to any intoxicated or irresponsible person. It shall be unlawful to explode or ignite fireworks within six hundred (600) feet of any church, hospital, asylum, public school, or place where fireworks are stored, sold, or offered for sale. No person shall ignite or discharge any permissible articles of fireworks within, or throw the same from a motor vehicle while within; nor shall any person place or throw any ignited article of fireworks into or at such a motor vehicle, or at or near any person or group of persons. (1978 Code, § 7-411)

7-512. Exceptions to application. Nothing in this chapter shall be construed as applying to the manufacture, storage, sale or use of signals necessary for the safe operation of railroads or other classes of public or private transportation or of illuminating devices for photographic use, nor as applying to the military or naval forces of the United States, or of the State of Tennessee or to the peace officers of the town or of the state, nor as prohibiting the sale or use of blank cartridges for ceremonial, theatrical, or athletic events, nor as applying to the transportation, sale or use of fireworks solely for agricultural purposes, providing the purchaser shall first secure a written permit to purchase and use fireworks for agricultural purposes only from the town fire marshal, and the state fire marshal, after approval of the county agricultural agent of Carroll County, Tennessee, and said fireworks must at all times be kept in possession of the farmer to whom the permit is issued. Items sold for agricultural purposes shall be limited to those items that are legal for retail sale and use within the town and the state. (1978 Code, § 7-412)

7-513. Penalty for violation. Notwithstanding any penalty for conviction of any applicable state law or regulation of the State of Tennessee, any individual, firm, partnership, or corporation that violates any provision of this chapter shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty dollars (\$20.00), nor more than fifty dollars (\$50.00). Each day that any violation of the provisions of this chapter continues shall be a separate triable offense. (1978 Code, § 7-413)

7-514. Seizure and destruction of fireworks. The town fire marshal shall seize as contraband, any fireworks other than "Class C Common Fireworks" as defined in § 7-505 hereof, and Tennessee Code Annotated, § 68-104-108, or "Special Fireworks" for public displays as provided in § 7-507 of this chapter, which are sold displayed, used or possessed in violation of this chapter. The town fire marshal is authorized to destroy any fireworks so seized. (1978 Code, § 7-414)

7-515. Requirements or compliance with state regulations not affected. This chapter shall in no wise affect the validity of any law or regulation promulgated by the State of Tennessee or by the fire marshal thereof, as relates to the control and regulation of the manufacture, sale or use of fireworks within the State of Tennessee. It is the intent of this chapter to authorize the public display, sale and use of such fireworks within the corporate limits of the Town of Huntingdon in accordance with the applicable state regulations, as augmented by the rules and regulations of the Town of Huntingdon.

The enforcement of this regulation shall be the responsibility of the fire marshal of the Town of Huntingdon. (1978 Code, § 7-415)

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

8-101. Prohibited generally.

8-101. Prohibited generally. Except as authorized by applicable laws² and/or ordinances, it shall be unlawful for any person to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for any intoxicating liquor within the Town of Huntingdon. "Intoxicating liquor" shall be defined to include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous, or malt liquors and beers which contain more than five percent (5%) of alcohol by weight. (1978 Code, § 2-101)

¹State law reference
Tennessee Code Annotated, title 57.

²State law reference
Tennessee Code Annotated, title 39, chapter 17.

CHAPTER 2**BEER¹****SECTION**

- 8-201. Selling, etc., of beer a privilege.
- 8-202. Beer board established.
- 8-203. Appointment and compensation of beer inspectors.
- 8-204. Permit required for engaging in beer business.
- 8-205. Permit issued for consumption of beer on or off the premises.
- 8-206. Written application and application fee required for permits.
- 8-207. Board may investigate charges and revoke permit; waiting period after revocation.
- 8-208. Permit to be posted.
- 8-209. Permits and licenses not transferable.
- 8-210. Distributors may sell only to permit holders.
- 8-211. Sales, etc., to minors prohibited; non-citizens not to be employed; no person convicted of violating certain laws to be employed.
- 8-212. Buying beer for minors prohibited.
- 8-213. Unlawful for minors to purchase beer.
- 8-214. Business hours for beer establishments.
- 8-215. Sale of beer prohibited from location where sleeping quarter connected.
- 8-216. Policemen and firemen may not be employed in beer business.
- 8-217. Outdoor advertising of beer prohibited.
- 8-218. Beer business to be open for inspection.
- 8-219. Applicant to agree to comply with laws.
- 8-220. Applicant to agree to suspension of license.
- 8-221. Location of business regulated by zoning ordinance.
- 8-222. Issuance and term of beer permit.
- 8-223. Separate beer permits and business license for each location.
- 8-224. Power of recorder and board to subpoena, etc.
- 8-225. Sales on on-premises or off-premises permitted.
- 8-226. Penalty.
- 8-227. Civil penalty in lieu of suspension.
- 8-228. Nudity on premises where intoxicating liquors are offered for sale.

¹Municipal code references

Minors in beer places: title 11.

Tax provisions: title 5.

State law reference

For a leading case on a municipality's authority to regulate beer, see the Tennessee Supreme Court decision in Watkins v. Naifeh, 635 S.W.2d 104 (1982).

8-201. Selling, etc., of beer a privilege. It shall hereafter be lawful and is hereby declared to be a privilege to sell, store for resale, or distribute beer of alcoholic content of not more than five (5%) percent by weight, or other beverages of like alcoholic content, within the corporate limits of the Town of Huntingdon, Tennessee, subject to all the regulations, limitations, and restrictions provided.

There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1st, 1994, and each successive January 1st, to the Town Recorder of the Town of Huntingdon. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month remaining until the next tax payment date. A partial month shall be considered a full month for purposes of this tax payment. (Tennessee Code Annotated, § 57-5-104(b)(1))

If a permit holder does not pay the annual privilege tax by January 31st, or within thirty (30) days after written notice of the tax was mailed, whichever is later, then the town must notify the permit holder by certified mail, or by hand-delivery by an official of the town, that the tax payment is past due. If the permit holder does not pay the tax within ten (10) days after receiving notice of its delinquency by certified mail or hand-delivery, then the permit is void. (Tennessee Code Annotated, § 57-5-104(b)(3)) (1978 Code, § 2-201)

8-202. Beer board established. There is hereby created a board, which shall be known and designated as the beer board of Huntingdon; hereinafter referred to in this chapter as the "board." Such board shall be composed of all the members of the town council.

It shall be the duty of the board to regulate and supervise the issuance of permits to store more than one case, distribute, and sell beer and other beverages of an alcoholic content of not in excess of five (5%) percent by weight to the persons and in the manner provided herein.

It is hereby declared that the sale of beer in the town is a privilege, and such board is hereby empowered, with complete discretion, to issue, revoke, and suspend all licenses to sell beer in the town, and to perform such other duties and to have such other powers and authority as provided in this chapter. (1978 Code, § 2-202)

8-203. Appointment and compensation of beer inspectors. The beer board, acting for the town, may fix the compensation of inspectors for the purpose of enforcing this chapter and other laws, ordinances, and rules regulating the distribution, possession, storage, and sale of beer, or other beverages of like alcoholic content at wholesale or retail. Such inspector, if appointed, shall hold office by and in the discretion of the board. Members of

the police department are fully authorized to enforce all provisions of this chapter at the option of the board in lieu of inspectors as hereinabove provided. (1978 Code, § 2-203)

8-204. Permit required for engaging in beer business. No person shall engage in the selling, storing for resale, possessing more than one (1) case, or distributing beer of alcoholic content of not more than five (5%) percent by weight or other beverages of like alcoholic content within the corporate limits of the Town of Huntingdon, Tennessee, until he shall receive a permit to do so from the beer board of the Town of Huntingdon, Tennessee, which permit shall at all times be subject to all of the limitations and restrictions herein provided.

(1) Permits shall be issued to the owner of the business, whether a person, firm, corporation, joint-stock company, syndicate, or association and cannot be transferred to another owner. (Tennessee Code Annotated, § 57-5-103(a)(3)(A))

(2) A permit is only for a single location and is valid for all decks, patios, and other outdoor serving areas that are contiguous to the exterior of the building in which the business is located. (Tennessee Code Annotated, § 57-5-103(a)(3)(B))

(3) Where an owner operates two or more restaurants or other businesses within the same building, the owner may, in his or her discretion, operate some or all of such businesses under the same permit. (Tennessee Code Annotated, § 57-5-103(a)(4))

(4) A permit is valid only for the business of the owner named in the permit. (Tennessee Code Annotated, § 57-5-103(a)(3)(C))

(5) A permit holder must return a permit to the town recorder within fifteen (15) days of termination of the business, change of ownership, relocation of the business or a change in the business name, provided, however, that notwithstanding the failure to return a beer permit, a permit shall expire on termination of the business, change in ownership, relocation of the business or change of the business's name. A change in ownership occurs for a corporate owner when at least fifty percent (50%) of the stock of the corporation is transferred to a new owner. (Tennessee Code Annotated, § 57-5-103(a)(6))

(6) Before the beer board shall issue a license or permit under this chapter, it shall cause to be published in a newspaper of general circulation a notice in which the name of the applicant and the address of the location for such license or permit, whether the application is for the sale of beer or like alcoholic beverages is for on or off-premise consumption, or both, and the date and time of its meeting at which such application shall be considered. The notice shall be published not less than ten (10) days prior to such meeting, and such meeting shall be a public hearing for the purpose of hearing the statement of any person or his attorney on any application for a license or permit. (Tennessee Code Annotated, § 57-5-105(e)) (1978 Code, § 2-204)

8-205. Permit issued for consumption of beer on or off the premises. Permits issued for retail sale of beverages coming within the provisions of this chapter shall be for on-premise consumption or for off-premise consumption, or for both on and off premise consumption. (1978 Code, § 2-205)

8-206. Written application and application fee required for permits. Before any permit is issued by the beer board, the applicant or applicants, therefor shall file with the beer board a sworn application in writing on the form proscribed by said board and provided by the department of finance and administration. The application shall be submitted to the town recorder, as the recording secretary to the board. Each application so submitted shall be accompanied by a non-refundable application fee in the amount of two hundred fifty dollars (\$250.00), payable to the General Fund, Town of Huntingdon, which shall be used to offset the expense of investigation and processing of the application.

Upon receipt of a properly executed application for a beer permit, the beer board shall be called into session within thirty (30) days of the date of receipt of same. The called session shall be publicly advertised at least one (1) time in a local newspaper of general circulation. The public notice shall also contain a statement that a public hearing shall also be held in conjunction with the consideration of the application by the board. At least seven (7) days shall lapse between the publication of the notice of a called session and the meeting thereof, and the publication date shall count as the first day of the notification period.

Normally, the beer board will be called into special session following the regular meetings of the Huntingdon Town Council which meets at 7:00 P.M., on the 2nd and 4th Tuesdays of each month in the council room of the Huntingdon Municipal Building. This does not preclude the beer board being called into session at other times, dates and/or places.

The application, which shall be in the form of a sworn statement, shall contain the following information:

- (1) The name and address of the applicant.
- (2) A statement that the applicant is a citizen of the United States.
- (3) The location of the premises at which the business shall be conducted.
- (4) The owner or owners of such premises.
- (5) That no person will be employed in the sale, storage for resale, or distribution of such beverages except those who are citizens of the United States.
- (6) That the applicant shall not engage in the sale of such beverages except at the place or places for which the beer board has issued a permit or permits to such applicant.
- (7) That no sale of such beverages will be made except in accordance with the permit granted.

(8) That the applicant will not knowingly sell, give away, or allow to be sold or given away on such premises legalized beer or other beverages of like alcoholic content on Sunday, or to minors at any time, or allow a minor to drink legalized beer or other beverages of alcoholic content on such premises.

(9) That neither the applicant nor any persons employed or to be employed by him in such distribution or sale of such beverage has ever been convicted of any violation of the law against prohibition, sale, manufacture, or transportation of intoxicating liquor, or of any crime involving moral turpitude within the past ten (10) years.

(10) That the applicant has not had a license for the sale of legalized beer or other beverages of like alcoholic content revoked.

(11) Whether the person applying will conduct the business in person, or whether he is acting as agent for any other person.

(12) That no brewer of beer or any other beverage of like alcoholic content has any interest, financial or otherwise, in the premises upon or in which the business to be licensed is carried on.

(13) That no brewer of beer or any other beverages of like alcoholic content has any interest, financial or otherwise, in the business which is licensed or requested to be licensed.

(14) That the applicant will not thereafter convey or grant to any brewer of beer or any other beverage of like alcoholic content any interest in either the business which is licensed to be carried on or in any other property at which such business may thereafter be carried on.

(15) That the applicant has, at the time of making such application, no indebtedness or other financial obligation to any brewer of beer or other beverage of like alcoholic content, and will not, during the period such license shall be in force, contract any financial obligation to any brewer of beer or other beverage of like alcoholic content other than for the purchase of such beer or other beverage of like alcoholic content.

This application shall be verified by the affidavit of the applicant, made before a notary public or the recorder, and if any false statement is made in any part of such application, the permit or license granted or issued to the applicant shall be revoked by the beer board. (1978 Code, § 2-206, as amended by Ord. #349, Aug. 1994)

8-207. Board may investigate charges and revoke permit; waiting period after revocation. All permits issued by the beer board under the provisions of this chapter shall be subject to suspension or revocation by said board for the violation of any of the provisions of the state beer act or any of the provisions of this chapter.

The board created by this chapter is vested with full and complete power to investigate charges against any permit holder and order him to appear and show cause why his permit should not be suspended or revoked for the violation of the provisions of this chapter or the provisions of the state beer act.

Complaints filed against any permit holder for the purpose of suspending or revoking such permits shall be made in writing and filed with the board. When the board shall have reason to believe that any permit holder shall have violated any of the provisions of this chapter or any of the provisions of the state beer act, the board is authorized, in its discretion, to notify the permittee of said violations and to cite said permittee by written notice to appear and show cause why his permit should not be suspended or revoked for such violations. Said notice to appear and show cause shall state the alleged violations charged and shall be served upon permittee either by registered mail or by a member of the police department of the Town of Huntingdon. The notice shall be served upon the permittee at least ten (10) days before the date of the hearing. At the hearing the board shall publicly hear the evidence both in support of the charges and on behalf of the permittee. After such hearing, if the charges are sustained by the evidence, the board may, in its discretion, suspend or revoke said permit. The action of the board in all such hearings shall be final, subject only to review by the court as provided by law. When a permit is revoked, no new permit shall be issued hereunder for the sale of beer at the same location, until the expiration of one (1) year from the date said revocation becomes final. (1978 Code, § 2-207)

8-208. Permit to be posted. The permit required by this chapter shall be posted in a conspicuous place on the premises of the permit holder. (1978 Code, § 2-208)

8-209. Permits and licenses not transferable. Permits and licenses issued under the provisions of this chapter are not transferable either as to location or to successor by purchase or otherwise of the business for which the permit was issued, and in either case, a new permit is required in the manner provided herein. (1978 Code, § 2-209)

8-210. Distributors may sell only to permit holders. No manufacturer or distributor of beer or other beverages of like alcoholic content shall sell to anyone except a licensed dealer holding a currently valid permit issued by the board. (1978 Code, § 2-210)

8-211. Sales, etc., to minors prohibited; non-citizens not to be employed; no person convicted of violating certain laws to be employed. No person engaging in the business regulated under this chapter shall make or permit to be made any sales or gifts to minors, or employ any person in the storage, sale, or distribution of any of such beverages except citizens of the United States. Neither the person engaging in such business nor any person employed by him shall be a person who has been convicted of any violation of the laws against possession, sale, manufacture, and transportation of intoxicating liquor, or any crime involving moral turpitude within the last ten (10) years. (1978 Code, § 2-211)

8-212. Buying beer for minors prohibited. It is hereby declared to be a misdemeanor, punishable as any other misdemeanor, for any adult person to buy or procure beer or other alcoholic beverage for or on behalf of any minor, and to deliver the same to said minor or any other minor. (1978 Code, § 2-212)

8-213. Unlawful for minors to purchase beer. It shall be unlawful and a misdemeanor for any person under twenty-one (21) years of age knowingly to misrepresent his age in order to obtain or purchase beer or remain in a location where minors are not allowed. (1978 Code, § 2-213, modified)

8-214. Business hours for beer establishments. Retail sales will be limited to the hours of 6:00 A.M. until 11:55 P.M. Mondays through Saturdays, with no sales taking place from 11:55 P.M. Saturday until 6:00 A.M. Monday. (1978 Code, § 2-214)

8-215. Sale of beer prohibited from location where sleeping quarter connected. Except as hereinafter provided, no beer or other beverages of like alcoholic content shall be sold on premises in direct connection with which sleeping quarters are provided. Within the meaning of this section, sleeping quarters shall be considered as being in direct connection with the premises upon which the sale is made when the sleeping quarters are in the same room, or when any interior passageway, door, hall, stairway, or other interior connection or a combination thereof is available and is used in going to or from the place where such sale is made to such sleeping quarters. (1978 Code, § 2-215)

8-216. Policemen and firemen may not be employed in beer business. It is hereby declared to be unlawful for any members of the police or fire departments of the Town of Huntingdon, or any other town employee, without a special permit from the board, to work at any place where beer is sold or dispensed under this chapter, or for any such town employee to have any interest, direct or indirect, in such business. (1978 Code, § 2-216)

8-217. Outdoor advertising of beer prohibited. It shall be unlawful for any person, firm, or corporation to place or maintain any outdoor advertisement of beer or any other alcoholic beverages upon any sign, billboard, post, building, or other place within the corporate limits of the Town of Huntingdon. (1978 Code, § 2-217)

8-218. Beer business to be open for inspection. The place of business and premises of the holder of any license for the distribution or sale of beverages regulated in this chapter shall be open to inspection and investigation by inspectors or police officers designated under § 8-203 hereof at any time such place is open for business, and any refusal by the holder of such license, or by

his agents, servants, or employees to permit any such officer to enter upon, inspect, and investigate any house, building, or room wherein business authorized for any permit issued by the board created in § 8-202 is conducted, within the hours that such house, building, or room is open for business shall be unlawful and a misdemeanor.

The conviction of such holder, or of any agent, servant, or employee of such holder of a violation of the provisions of this section shall also be a sufficient cause for the revocation of the permit and license of such holder. (1978 Code, § 2-218)

8-219. Applicant to agree to comply with laws. Every applicant for a beer permit and license must agree in his application to comply with all laws of the State of Tennessee, the United States, and all ordinances of the Town of Huntingdon regulating and handling of beer. (1978 Code, § 2-219)

8-220. Applicant to agree to suspension of license. All applications for a beer permit and license shall contain an agreement that the beer board may revoke or suspend the permit and license issued under the provisions of this chapter, and shall also contain the information required in § 8-206. (1978 Code, § 2-220)

8-221. Location of business regulated by zoning ordinance. No beer permit or license shall be issued for the conduct of business at any point or place in the corporate limits of the Town of Huntingdon unless such place is zoned for, or authorized to be used for, commercial or other purposes corresponding to the character of the business contemplated herein. (1978 Code, § 2-221)

8-222. Issuance and term of beer permit. Applications for beer permits shall be approved or disapproved by the beer board created in § 8-202 hereinabove, and, if approved, the town recorder shall issue a "beer permit" on the form as approved by the beer board and provided by the department of finance and administration. Said permits shall be issued for an indefinite period of time (Tennessee Code Annotated, § 57-5-106), subject only to suspension, revocation or cancellation by the beer board as herein provided.

Within ten (10) days after being issued a permit to sell beverages as regulated by this chapter, the permit holder shall file with the town recorder, and with the source from whom he or she buys beer, a copy of a valid certificate indicating that the purchases of beer are "for resale" (State Sales Tax Registration Certificate), and shall maintain at all times a copy of a valid certificate with the town recorder. (Tennessee Code Annotated, § 57-5-103(d)(1)) (1978 Code, § 2-222)

8-223. Separate beer permits and business license for each location. A separate beer permit and a town business license shall be obtained for each location at which any applicant is to distribute or sell legalized beer or other beverage of like alcoholic content; however, in those instances where the applicant has already obtained a current and valid business license from the town recorder for the location at which such beverages are to be sold, such as a market, a second business license for the sale or distribution of subject beverages shall not be required so long as said sales are in conjunction with the normal business activity licensed thereat. (1978 Code, § 2-223)

8-224. Power of recorder and board to subpoena, etc. The recorder and the beer board are hereby authorized to subpoena persons and records, and to administer oaths and hear testimony in the enforcement of this chapter. (1978 Code, § 2-224)

8-225. Sales on-premises or off-premises permitted.

(1) On-premises sales. Those individuals, groups, firms, etc., granted permits for the sale of beer and like alcoholic beverages as hereby regulated for on-premise consumption are hereby permitted to sell non-chilled or chilled (refrigerated, iced, or otherwise cooled) beer or like alcoholic beverages for on-premises consumption.

(2) Off-premises sales. Those individuals, groups, firms, etc., granted permits for the sale of beer and like alcoholic beverages as hereby regulated for off-premise consumption shall limit their sales of such beverages to containers of such beverages which are sealed, capped, or otherwise closed in a manner in which they are produced by the brewer or manufacturer, and which are to be removed from the premises prior to consumption. Nothing in this section shall be construed to prohibit the sale of chilled (refrigerated, iced, or otherwise cooled) beer or like alcoholic beverages for off-premises consumption.

(3) No permit shall be issued for the sale of beer or beverages of like alcoholic content for either on-premise or off-premise consumption as are herein regulated if:

(a) Said situs of such sales for ON-PREMISE CONSUMPTION is located with TWO THOUSAND (2,000) FEET of a school church or other public gathering place as measured in a straight line from the nearest point on the school, church or other public assembly building and the nearest public entry to the building, or portion of a multi-use building, wherein such sales shall take place, or, in the case of a public playground (including school playgrounds) or public park, from the nearest public entry to the building, or portion of a multi-user building, wherein such sales shall take place to the nearest point on the property line of such public playground or public park.

(b) Said situs of such sales for OFF-PREMISE CONSUMPTION is located within ONE THOUSAND (1,000) FEET of any school (public or

private), church or other public gathering place as measured in a straight line from the nearest point of the school, church or other public assembly building and the nearest public entry to the building, or portion of a multi-use building, wherein such sales shall take place or, in the case of a public playground (including school playgrounds) or public park, from the nearest public entry to the building, or portion of a multi-user building, wherein such sales shall take place to the nearest point on the property line of such public playground or public park.

(c) Exceptions. Holders of current permits issued by the Huntingdon Beer Board are exempt from the requirements of this amended section.

(d) The town shall not suspend, revoke or deny a permit to a business engaged in selling, distributing or manufacturing beer on the basis of the proximity of the business to a school, church, or other place of public gathering if a valid permit had been issued to any business on that same location as of January 1st, 1993; however, this section shall not apply if beer is not sold, distributed or manufactured at that location during any continuous six-month period after January 1st, 1993. (Tennessee Code Annotated, § 57-5-108)

(4) No permit shall be granted to any place of business to sell such beverages as are herein regulated when such sales will cause congestion of traffic, or interfere with schools, churches, or other places of public gathering, or will otherwise interfere with public health, safety, and morals.

(5) No permit shall be granted to any place of business to sell such beverages as are herein regulated when such sale is within three hundred feet (300) of a residential dwelling, measured from building to building, provided the owner of the residential dwelling appears in person before the beer board and objects to the issuance of such a permit.

(6) Persons holding permits for on-premise or off-premise consumption at the time the provisions of this chapter were adopted are exempt from the provisions of § 8-225, sub-paragraphs (3), (4), and (5). (7) Notwithstanding any other provisions of this chapter, any permit issued pursuant to the authority contained therein may be revoked if the business location causes traffic congestion or interferes with schools, churches or other places of public gathering, or otherwise interferes with public health, safety and welfare. (1978 Code, § 2-225)

8-226. Penalty. In addition to other penalties provided in this chapter, any person violating its provisions shall be guilty of a misdemeanor, and may be tried in municipal court and cited to the beer board and may have his permit suspended or revoked. Upon conviction of a misdemeanor any violator shall be subject to a fine as provided for in the general penalty clause for this code. (1978 Code, § 2-226)

8-227. Civil penalty in lieu of suspension. The beer board may, at the time it imposes a revocation or suspension, offer, a permit holder the alternative of paying a civil penalty not to exceed \$1,500.00 for each offense of making or permitting to be made any sales to minors, or a civil penalty of not to exceed \$1,000 for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn. (Tennessee Code Annotated, § 57-5-108(a)(2)) (1978 Code, § 2-227)

8-228. Nudity on premises where intoxicating liquors are offered for sale. (1) It shall be unlawful for any person maintaining, owning, or operating a commercial establishment where intoxicating liquors, as defined in chapter 1 of this title, are offered for sale or consumed on the premises:

(a) To suffer or permit any female person, while on the premises of said commercial establishment, to expose to the public view that area of the human breast at or below the areola thereof.

(b) To permit any female person, while on the premises of said commercial establishment, to employ any device or covering which is intended to give the appearance of or simulate such portions of the human female breast as described in subsection (1)(a).

(c) To suffer or permit any person, while on the premises of said commercial establishment to expose to public view his or her genitals, pubic area, buttocks, anus or anal cleft or cleavage, or to show the covered male genitals in a discernibly turgid state.

(d) To suffer or permit any person, while on the premises of said commercial establishment, to employ any device or covering which is intended to give the appearance of or simulate the genitals, pubic area, buttocks, anus, anal cleft or cleavage.

(2) It shall be unlawful for any female person, while on the premises of a commercial establishment located within the Town of Huntingdon, at which intoxicating liquors are offered for sale for consumption on the premises, to expose to public view that area of the human female breast at or below the areola thereof, or to employ any device or covering which is intended to give the appearance or simulate such areas of the female breast as described herein.

(3) It shall be unlawful for any person, while on the premises of a commercial establishment located within the Town of Huntingdon, at which intoxicating liquors are offered for sale for consumption on the premises, to expose to public view his or her genitals, pubic area, buttocks, anus or anal cleft or cleavage, or to employ any device or covering which is intended to give the appearance of or simulate the genitals, pubic area, buttocks, anus or anal cleft or cleavage, or to show the covered male genitals in a discernibly turgid state.

(4) To allow any entertainment on licensed premises by any owner, licensee, agent of licensee, guest of licensee, employee, independent contractor of licensee, patron, or guest, which shall contain the performance of acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law included but not limited to table dancing, lap dancing, couch dancing, or including the actual or simulated touching, caressing, or fondling of the breasts, buttocks, anus, or genitals, or the actual or simulated displaying of the pubic hair, anus, vulva, or genitals; or the nipples of a female.

(5) For the purpose of this section showing the human male or female genitals, pubic area, or buttock with less than a full opaque covering or showing of the female breast with less than a fully opaque covering of any part of the nipple shall constitute exposing same.

(6) Any person who shall violate any provision of this section shall be guilty of an offense against the Town of Huntingdon punishable as set forth in § 8-226 of the Huntingdon Municipal Code.

(7) If the owner, operator, licensee, lessor, lessee, manager, employee, or any other person participating in the operation of a commercial establishment located within the Town of Huntingdon at which intoxicating liquors are offered for sale for consumption on the premises shall be convicted of any of the offenses designated in § 8-228(1)(a), then the town recorder shall give licensee notice of a hearing before the beer board in accordance with § 8-207 of the Huntingdon Municipal Code of hearing. (As added by Ord. #421, Oct. 1999)

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

1. MISCELLANEOUS.
2. PEDDLERS, ETC.
3. CHARITABLE SOLICITORS.
4. PRIVATE PASSENGER-FOR-HIRE VEHICLES.
5. POOL ROOMS.
6. CABLE TELEVISION.
7. PAWNBROKERS, JUNK DEALERS, SECONDHAND DEALERS, AND USED FIREARMS DEALERS.
8. ADULT-ORIENTED ESTABLISHMENTS.

CHAPTER 1

MISCELLANEOUS

SECTION

9-101. "Going out of business" sales.

9-101. "Going out of business" sales. It shall be unlawful for any person to falsely represent a sale as being a "going out of business" sale. A "going out of business" sale, for the purposes of this section, shall be a "fire sale," "bankrupt sale," "loss of lease sale," or any other sale made in anticipation of the termination of a business at its present location. When any person after advertising a "going out of business" sale adds to his stock or fails to go out of business within ninety (90) days he shall prima facie be deemed to have violated this section. (1978 Code, § 5-101, as amended by Ord. #362, Feb. 1995)

¹Municipal code references

Building, plumbing, wiring and housing regulations: title 12.

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

CHAPTER 2**PEDDLERS, ETC.**¹**SECTION**

- 9-201. Permit required.
- 9-202. Exemptions.
- 9-203. Application for permit.
- 9-204. Issuance or refusal of permit.
- 9-205. Appeal.
- 9-206. Bond.
- 9-207. Loud noises and speaking devices.
- 9-208. Use of streets.
- 9-209. Exhibition of permit.
- 9-210. Policemen to enforce.
- 9-211. Revocation or suspension of permit.
- 9-212. Reapplication.
- 9-213. Expiration and renewal of permit.

9-201. Permit required. It shall be unlawful for any peddler, canvasser, solicitor, or transient merchant to ply his trade within the corporate limits without first obtaining a permit in compliance with the provisions of this chapter. No permit shall be used at any time by any person other than the one to whom it is issued. (1978 Code, § 5-201)

9-202. Exemptions. The terms of this chapter shall not be applicable to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to bona fide charitable, religious, patriotic, or philanthropic organizations. The terms of this chapter shall not apply to farmers selling their own produce provided the only place such sales shall take place is on the court square and the only days on which such sales take place are Sunday through Friday. Farmers selling at other locations and/or on Saturdays will be subject to the provisions of this chapter. (1978 Code, § 5-202)

9-203. Application for permit. Applicants for a permit under this chapter must file with the recorder a sworn written application containing the following:

- (1) Name and physical description of applicant.

¹Municipal code reference
Privilege taxes: title 5.

(2) Complete permanent home address and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made.

(3) A brief description of the nature of the business and the goods to be sold.

(4) If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship.

(5) The length of time for which the right to do business is desired.

(6) A recent clear photograph approximately two (2) inches square showing the head and shoulders of the applicant.

(7) The names of at least two (2) reputable local property owners who will certify as to the applicant's good moral reputation and business responsibility, or in lieu of the names of references, such other available evidence as will enable an investigator properly to evaluate the applicant's moral reputation and business responsibility.

(8) A statement as to whether or not the applicant has been convicted of any crime or misdemeanor or for violating any municipal ordinance; the nature of the offense; and, the punishment or penalty assessed therefor.

(9) The last three (3) cities or towns, if that many, where applicant carried on business immediately preceding the date of application and, in the case of transient merchants, the addresses from which such business was conducted in those municipalities.

(10) At the time of filing the application, a fee of five dollars (\$5.00) shall be paid to the town, except that magazine salespersons will be required to pay a \$10.00 fee, to cover the cost of investigating the facts stated therein. (1978 Code, § 5-203)

9-204. Issuance or refusal of permit. (1) Each application shall be referred to the chief of police for investigation. The chief shall report his findings to the recorder within seventy-two (72) hours.

(2) If as a result of such investigation the chief reports the applicant's moral reputation and/or business responsibility to be unsatisfactory, the recorder shall notify the applicant that his application is disapproved and that no permit will be issued.

(3) If, on the other hand, the chief's report indicates that the moral reputation and business responsibility of the applicant are satisfactory, the recorder shall issue a permit upon the payment of all applicable privilege taxes and the filing of the bond required by § 9-206. The recorder shall keep a permanent record of all permits issued. (1978 Code, § 5-204)

9-205. Appeal. Any person aggrieved by the action of the chief of police and/or the recorder in the denial of a permit shall have the right to appeal to the town council. Such appeal shall be taken by filing with the mayor within fourteen (14) days after notice of the action complained of, a written statement

setting forth fully the grounds for the appeal. The mayor shall set a time and place for a hearing on such appeal and notice of the time and place of such hearing shall be given to the appellant. The notice shall be in writing and shall be mailed, postage prepaid, to the applicant at his last known address at least five (5) days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (1978 Code, § 5-205)

9-206. Bond. Every permittee shall file with the recorder a surety bond running to the town in the amount of one thousand dollars (\$1,000.00). The bond shall be conditioned that the permittee shall comply fully with all the provisions of the ordinances of the Town of Huntingdon and the statutes of the state regulating peddlers, canvassers, solicitors, transient merchants, itinerant merchants, or itinerant vendors, as the case may be, and shall guarantee to any citizen of the town that all money paid as a down payment will be accounted for and applied according to the representations of the permittee, and further guaranteeing to any citizen of the town doing business with said permittee that the property purchased will be delivered according to the representations of the permittee. Action on such bond may be brought by any person aggrieved and for whose benefit, among others, the bond is given, but the surety may, by paying, pursuant to order of the court, the face amount of the bond to the clerk of the court in which the suit is commenced, be relieved without costs of all further liability. (1978 Code, § 5-206)

9-207. Loud noises and speaking devices. No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks, or other public places of the town or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the adjacent sidewalks, streets, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares, or merchandise which such permittee proposes to sell. (1978 Code, § 5-207)

9-208. Use of streets. No permittee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where the operation might impede or inconvenience the public use of the streets. For the purpose of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (1978 Code, § 5-208)

9-209. Exhibition of permit. Permittees are required to exhibit their permits at the request of any policeman or citizen. (1978 Code, § 5-209)

9-210. Policemen to enforce. It shall be the duty of all policemen to see that the provisions of this chapter are enforced. (1978 Code, § 5-210)

9-211. Revocation or suspension of permit. (1) Permits issued under the provisions of this chapter may be revoked by the town council after notice and hearing, for any of the following causes:

(a) Fraud, misrepresentation, or incorrect statement contained in the application for permit or made in the course of carrying on the business of solicitor, canvasser, peddler, transient merchant, itinerant merchant or itinerant vendor.

(b) Any violation of this chapter.

(c) Conviction of any crime or misdemeanor.

(d) Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerant merchant, or itinerant vendor, as the case may be, in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

(2) Notice of the hearing for revocation of a permit shall be given by the recorder in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed to the permittee at his last known address at least five (5) days prior to the date set for hearing or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing.

(3) When reasonably necessary in the public interest, the mayor may suspend a permit pending the revocation hearing. (1978 Code, § 5-211)

9-212. Reapplication. No permittee whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the last revocation. (1978 Code, § 5-212)

9-213. Expiration and renewal of permit. Permits issued under the provisions of this chapter shall expire on the same date that the permittee's privilege license expires and shall be renewed without cost if the permittee applies for and obtains a new privilege license within thirty (30) days thereafter. Permits issued to permittees who are not subject to a privilege tax shall be issued for one (1) year. An application for a renewal shall be made substantially in the same form as an original application. However, only so much of the application shall be completed as is necessary to reflect conditions which have changed since the last application was filed. (1978 Code, § 5-213)

CHAPTER 3

CHARITABLE SOLICITORS

SECTION

- 9-301. Permit required.
- 9-302. Prerequisites for a permit.
- 9-303. Denial of a permit.
- 9-304. Exhibition of permit.
- 9-305. Trespassing.
- 9-306. Violations.

9-301. Permit required. No person shall solicit contributions or anything else of value for any real or alleged charitable or religious purpose without a permit from the recorder authorizing such solicitation. Provided, however, that this section shall not apply to any locally established organization or church operated exclusively for charitable or religious purposes if the solicitations are conducted exclusively among the members thereof, voluntarily and without remuneration for making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies of any such established organization or church. (1978 Code, § 5-301)

9-302. Prerequisites for a permit. The recorder shall, upon application, issue a permit authorizing charitable or religious solicitations when, after a reasonable investigation, he finds the following facts to exist:

(1) The applicant has a good character and reputation for honesty and integrity, or if the applicant is not an individual person, that every member, managing officer, or agent of the applicant has a good character or reputation for honesty and integrity.

(2) The control and supervision of the solicitation will be under responsible and reliable persons.

(3) The applicant has not engaged in any fraudulent transaction or enterprise.

(4) The solicitation will not be a fraud on the public but will be for a bona fide charitable or religious purpose.

(5) The solicitation is prompted solely by a desire to finance the charitable cause described by the applicant. (1978 Code, § 5-302)

9-303. Denial of a permit. Any applicant for a permit to make charitable or religious solicitations may appeal to the town council if he has not been granted a permit within fifteen (15) days after he makes application therefor. (1978 Code, § 5-303)

9-304. Exhibition of permit. Any solicitor required by this chapter to have a permit shall exhibit such permit at the request of any policeman or person solicited. (1978 Code, § 5-304)

9-305. Trespassing. It shall be unlawful and deemed to be a trespass for any permittee acting under this chapter to fail to leave promptly the private premises of any person who requests or directs him to leave. (1978 Code, § 5-305)

9-306. Violations. Any person violating any provision of this chapter or making a false or fraudulent statement either in his application for a permit or in the process of making a solicitation shall be subject to the penalty provided for violations of this municipal code. In addition to or in lieu of any pecuniary penalty, if a violator has been issued a permit, his permit shall be cancelled and revoked by the court. (1978 Code, § 5-306)

CHAPTER 4

PRIVATE PASSENGER-FOR-HIRE VEHICLES

SECTION

- 9-401. Private passenger-for-hire vehicle privilege license required.
- 9-402. Requirements as to application and hearing.
- 9-403. Liability insurance required.
- 9-404. Revocation or suspension of franchise.
- 9-405. Cleanliness of vehicles.
- 9-406. Inspection of vehicles.
- 9-407. License and permit required for drivers.
- 9-408. Qualifications for driver's permit.
- 9-409. Revocation or suspension of business license.
- 9-410. Drivers not to solicit business.
- 9-411. Parking restricted.
- 9-412. Drivers to use direct routes.
- 9-413. Vehicles not to be used for illegal purposes.
- 9-414. Miscellaneous prohibited conduct by drivers.
- 9-415. Transportation of more than one passenger at the same time.
- 9-416. Fares.
- 9-417. Deleted.

9-401. Private passenger-for-hire vehicles privilege license required. It shall be unlawful for any person to engage in the private passenger-for-hire vehicle business without first obtaining a privilege license from the town. (1978 Code, § 5-401, as replaced by Ord. #477, March 2005)

9-402. Requirements as to application and hearing. No person shall be eligible to apply for a private passenger-for-hire vehicle business if they have been convicted of a felony within the last ten (10) years. Applications for a private passenger-for-hire vehicle business shall be made under oath and in writing to the chief of police. The application shall state the name and address of the applicant, the name and address of the proposed place of business, the number of vehicles the applicant desires to operate, the makes and models of said vehicles, and such other pertinent information as the chief of police may require. The application shall be accompanied by at least two (2) affidavits of reputable local citizens attesting to the good character and reputation of the applicant. Within ten (10) days after receipt of an application, the chief of police shall make a thorough investigation of the applicant; determine if there is a public need for additional private passenger-for-hire vehicle businesses; present the application to the town council; and make a recommendation to either grant or refuse a license to the applicant. The town council shall thereupon hold a public hearing at which time witnesses for and against the granting of the

license shall be heard. In deciding whether or not to grant the license, the town council shall consider the public need for additional service, the increased traffic congestion, parking space requirements, and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved by the granting of such an additional license. Those persons already operating private passenger-for-hire vehicle businesses when this chapter is adopted shall not be required to make applications under this section but shall be required to comply with all of the other provisions hereof. (1978 Code, § 5-402, as replaced by Ord. #477, March 2005)

9-403. Liability insurance required. No license shall be issued or continued in operation unless there is in full force and effect a liability insurance policy for each vehicle authorized in an amount equal to that required by the state's financial responsibility law as set out in Tennessee Code Annotated, title 55, chapter 12. The insurance policy required by this section shall contain a provision that it shall not be cancelled except after at least twenty (20) days' written notice is given by the insurer to both the insured and the recorder of the town. (1978 Code, § 5-403, as replaced by Ord. #477, March 2005)

9-404. Revocation or suspension of license. The town council, after a public hearing, may revoke or suspend any license for misrepresentations or false statements made in the application therefor or for traffic violations or violations of this chapter by the business owner or any driver. (1978 Code, § 5-404, as replaced by Ord. #477, March 2005)

9-405. Cleanliness of vehicles. All vehicles operated in the town shall, at all times, be kept in a reasonably clean and sanitary condition. They shall be thoroughly swept and dusted at least once each day. At least once every week they shall be thoroughly washed and the interior cleaned with a suitable antiseptic solution. (1978 Code, § 5-405, as replaced by Ord. #477, March 2005)

9-406. Inspection of vehicles. All vehicles shall be inspected at least semiannually by the chief of police to insure that they comply with the requirements of this chapter with respect to mechanical condition, cleanliness, etc. (1978 Code, § 5-406, as replaced by Ord. #477, March 2005)

9-407. License and permit required for drivers. No person shall drive a vehicle unless they are in possession of a state special chauffeur's license and a driver's permit issued by the chief of police. (1978 Code, § 5-407, as replaced by Ord. #477, March 2004)

9-408. Qualifications for driver's permit. No person shall be issued a driver's permit unless they comply with the following to the satisfaction of the chief of police:

- (1) Makes written application to the chief of police.
- (2) Is at least eighteen (18) years of age and holds a proper state license.
- (3) Undergoes an examination by a physician and is found to be of sound physique, with good eyesight and hearing and not subject to epilepsy, vertigo, heart trouble or any other infirmity of body or mind which might render him unfit for the safe operation of a public vehicle.
- (4) Is clean in dress and person and is not addicted to the use of intoxicating liquor or drugs.
- (5) Produces affidavits of good character from two (2) reputable citizens of the town who have known him personally and have observed his conduct for at least two (2) years next preceding the date of his application.
- (6) Any applicant who has been rendered ineligible for the issuance of the proper driver's license under the provision of Tennessee Code Annotated, § 55-50-303 or its successor, will also be rendered ineligible for the issuance of a drivers permit by the Town of Huntingdon. Any questions relative to the application of the provisions of Tennessee Code Annotated, § 55-50-303 to any particular applicant for a Huntingdon drivers permit shall be resolved by a committee composed of the serving mayor, the council member who has been designated as the advisor for police and law enforcement, and the town's chief of police, and their decisions shall be final, except for normal recourse of law.
- (7) Is familiar with the state and local traffic laws. (1978 Code, § 5-408, as replaced by Ord. #477, March 2005)

9-409. Revocation or suspension of driver's permit. The town council, after a public hearing, may revoke or suspend any business license for traffic regulations, for violation of this chapter, or when the driver ceases to possess the qualifications as prescribed in § 9-409. (1978 Code, § 5-409, as replaced by Ord. #477, March 2005)

9-410. Drivers not to solicit business. All drivers are expressly prohibited from indiscriminately soliciting passengers or from cruising upon the streets of the town for the purpose of obtaining patronage for their vehicles. (1978 Code, § 5-410, as replaced by Ord. #477, March 2005)

9-411. Parking restricted. It shall be unlawful to park any private passenger-for-hire vehicle on any street except in such places as have been specifically designated and marked by the town for the use of such vehicles. It is provided, however, that vehicles may stop upon any street for the purpose of picking up or discharging passengers if such stops are made in such manner as not to interfere unreasonably with or obstruct other traffic and provided the passenger loading or discharging is promptly accomplished. (1978 Code, § 5-411, as replaced by Ord. #477, March 2005)

9-412. Drivers to use direct routes. Drivers shall always deliver their passengers to their destinations by the most direct available route. (1978 Code, § 5-412, as replaced by Ord. #477, March 2005)

9-413. Vehicles not to be used for illegal purposes. No vehicle shall be used for or in the commission of any illegal act, business, or purpose. (1978 Code, § 5-413, as replaced by Ord. #477, March 2005)

9-414. Miscellaneous prohibited conduct by drivers. It shall be unlawful for any driver, while on duty, to be under the influence of, or to drink any intoxicating beverage or beer; to use profane or obscene language; to shout or call to prospective passengers; to unnecessarily blow the automobile horn; or to otherwise disturb the peace, quiet, and tranquility of the town in any way. (1978 Code, § 5-414, as replaced by Ord. #477, March 2005)

9-415. Transportation of more than one passenger at the same time. No person shall be admitted to a vehicle already occupied by a passenger without the consent of such other passenger. (1978 Code, § 5-415, as replaced by Ord. #477, March 2005)

9-416. Fares. Fares of vehicles for transporting passengers within the corporate limits shall be established and raised or lowered by the town council by resolution from time to time as circumstances require. (1978 Code, § 5-416, as replaced by Ord. #477, March 2004)

9-417. Deleted. (1978 Code, § 5-417, as deleted by Ord. #477, March 2005)

CHAPTER 5

POOL ROOMS¹

SECTION

9-501. Prohibited in residential areas.

9-502. Hours of operation regulated.

9-501. Prohibited in residential areas. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire on any premises located in any block where fifty percent (50%) or more of the land is used or zoned for residential purposes. (1978 Code, § 5-501)

9-502. Hours of operation regulated. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire at any time except during the following hours:

(1) In establishments which do not have beer sales:

Sundays only 1:00 P.M. to 11:00 P.M.
Mondays thru Thursdays 6:00 A.M. to 11:00 P.M.
Fridays and Saturdays 6:00 A.M. to 12 Midnight

(2) In establishments which do have beer sales:

Sundays only 1:00 P.M. to 6:00 P.M.
Mondays thru Saturdays 6:00 A.M. to 11:55 P.M.
(1978 Code, § 5-502, as amended by Ord. #342, June 1994)

¹Municipal code reference
Privilege taxes: title 5.

CHAPTER 6

CABLE TELEVISION

SECTION

9-601. To be furnished under franchise.

9-601. To be furnished under franchise. Cable television service shall be furnished to the Town of Huntingdon and its inhabitants under franchise as the board of mayor and aldermen shall grant. The rights, powers, duties and obligations of the Town of Huntingdon and its inhabitants and the grantee of the franchise shall be clearly stated in the franchise agreement which shall be binding upon the parties concerned.¹

¹For complete details relating to the cable television franchise agreement see Ord. #386, in the office of the town recorder.

CHAPTER 7

**PAWNBROKERS, JUNK DEALERS, SECONDHAND DEALERS,
AND USED FIREARMS DEALERS**

SECTION

- 9-701. Record of articles pawned or purchased.
- 9-702. Articles pawned or purchased to be held at least fifteen (15) days.
- 9-703. Identification of pawner or seller.
- 9-704. Report to chief of police of purchases and pawns.
- 9-705. Dealing with persons under eighteen (18) years of age.
- 9-706. Pawnbroker signs not to be displayed unless license to do pawnbroking business has been secured.

9-701. Record of articles pawned or purchased. It shall be the duty of the pawnbrokers, junk dealers, dealers in used firearms, dealers in secondhand automobile tires and accessories, and dealers in secondhand wearing apparel and other personal property to keep a well-bound book in which every article taken by them in pawn or purchased by them shall be registered, giving a description of each such article sufficient to identify it clearly. The chief of police or his authorized representative shall have the authority to determine if the well-bound book and item description are sufficient.

Such well-bound book shall be kept in the place of business of such pawnbroker, junk dealer, secondhand dealer, or used firearm dealer and shall at all times be open for inspection by the chief of police or any police officer of the town or by any interested private citizen. (1978 Code, § 5-601)

9-702. Articles pawned or purchased to be held at least fifteen (15) days. All articles taken by pawnbrokers, junk dealers, secondhand dealers, or used firearms dealers in pawn or purchase shall not be sold, resold, melted down, or otherwise disposed of or disfigured in any way until such articles have been in the possession of such person for a period of at least fifteen (15) days. (1978 Code, § 5-602)

9-703. Identification of pawner or seller. All pawnbrokers, junk dealers, secondhand dealers, and used firearms dealers shall ascertain the name and address of the seller or pawner in each case of a purchase or pawn. If such pawnbroker or dealer does not know such seller, he shall require the pawner or seller to furnish proof of his identification and residence. (1978 Code, § 5-603)

9-704. Report to the chief of police of purchases and pawns. All pawnbrokers, junk dealers, secondhand dealers, and used firearms dealers shall within twenty-four (24) hours after each purchase or pawn report in writing, to the chief of police at his office in the town hall, the name and address of each

such seller or pawnor and a list showing in detail the property involved. Such list shall in each case furnish the best possible description of the property. The description shall include any serial number or other identification number or any letters, words, or markings of any nature intended to furnish, or furnishing, a description or part of the description of the particular item so reported. (1978 Code, § 5-604)

9-705. Dealing with persons under eighteen (18) years of age. It shall be unlawful for any pawnbroker, junk dealer, secondhand dealer, or used firearm dealer to purchase or take in pawn or pledge any property from a person under eighteen (18) years of age. (1978 Code, § 5-605)

9-706. Pawnbroker signs not to be displayed unless license to do pawnbroking business has been secured. It shall be unlawful for any person engaged in the sale or exchange of secondhand articles or any other business, to display any sign, device, or subterfuge in or about his premises where such business is conducted, resembling the ordinary sign commonly used by pawnbrokers, unless such person shall have first secured from the town and has in his possession a license to engage in a general pawnbroking business. (1978 Code, § 5-606)

CHAPTER 8

ADULT-ORIENTED ESTABLISHMENTS

SECTION

- 9-801. Definitions.
- 9-802. License required.
- 9-803. Application for license.
- 9-804. Standards for issuance of license.
- 9-805. Permit required.
- 9-806. Application for permit.
- 9-807. Standards for issuance of permit.
- 9-808. Fees.
- 9-809. Display of license or permit.
- 9-810. Renewal of license or permit.
- 9-811. Revocation of license or permit.
- 9-812. Hours of operation.
- 9-813. Responsibilities of the operator.
- 9-814. Prohibitions and unlawful sexual acts.
- 9-815. Penalties and prosecution.
- 9-816. Invalidity of part.

9-801. Definitions. For the purpose of this chapter, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context:

(1) "Adult bookstore" means an establishment receiving at least twenty percent (20%) of its gross sales from the sale or rental of books, magazines, periodicals, videotapes, DVDs, films and other electronic media which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined below. "Adult bookstore" shall not include video stores whose primary business is the rental and sale of videos which are not distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

(2) "Adult cabaret" is defined to mean an establishment which features as a principle use of its business, entertainers and/or waiters and/or bartenders and/or any other employee or independent contractor, who expose to public view of the patrons within said establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material; including swim suits, lingerie or latex covering. Adult cabarets shall include commercial establishments which feature entertainment of an erotic nature including exotic dancers, table dancers,

private dancers, strippers, male or female impersonators, or similar entertainers.

(3) "Adult mini-motion picture theater" means an enclosed building with a capacity of less than fifty (50) persons regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined below, for observation by any means by patrons therein.

(4) "Adult motion picture theater" means an enclosed building with a capacity of fifty (50) or more persons regularly used for presenting materials having as a dominant theme or presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined below, for observation by any means by patrons therein.

(5) "Adult-entertainment" means any exhibition of any adult-oriented: motion pictures, live performance, computer or CD Rom generated images, displays of adult-oriented images or performances derived or taken from the internet, displays or dance of any type, which has a significant or substantial portion of such performance any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical areas, removal or partial removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal service offered customers.

(6) "Adult-oriented establishment" shall include, but not be limited to, "adult bookstore," "adult motion picture theaters," "adult mini-motion picture establishments," or "adult cabaret," and further means any premises to which the public patrons or members (regardless of whether or not the establishment is categorized as a private or members only club) are invited or admitted and/or which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, when such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. An "adult-oriented establishment" further includes, without being limited to, any "adult entertainment studio" or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.

(7) "Council" or "town council" means the Council of the Town of Huntingdon, Tennessee.

(8) "Employee" means any and all persons, including independent contractors, who work in or at or render any services directly related to the operation of an adult-oriented establishment.

(9) "Entertainer" means any person who provides entertainment within an adult-oriented establishment as defined in this section, whether or not

a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee or an independent contractor.

(10) "Operator" means any person, partnership, corporation, or entity of any type or character operating, conducting or maintaining an adult-oriented establishment.

(11) "Specified anatomical areas" means:

(a) Less than completely and opaquely covered:

(i) Human genitals, pubic region;

(ii) Buttocks;

(iii) Female breasts below a point immediately above the top of the areola; and

(b) Human male genitals in an actual or simulated discernibly turgid state, even if completely opaquely covered.

(12) "Specified sexual activities" means:

(a) Human genitals in a state of actual or simulated sexual stimulation or arousal;

(b) Acts or simulated acts of human masturbation, sexual intercourse or sodomy;

(c) Fondling or erotic touching of human genitals, pubic region, buttock or female breasts. (as added by Ord. #504, Nov. 2007)

9-802. License required. (1) Except as provided in subsection (5) below, from and after the effective date of the ordinance comprising this chapter, no adult-oriented establishment shall be operated or maintained in the Town of Huntingdon without first obtaining a license to operate issued by the Town of Huntingdon.

(2) A license may be issued only for one (1) adult-oriented establishment located at a fixed and certain place. Any person, partnership, or corporation which desires to operate more than one (1) adult-oriented establishment must have a license for them.

(3) No license or interest in a license may be transferred to any person, partnership, or corporation.

(4) It shall be unlawful for any entertainer, employee or operator to knowingly work in or about, or to knowingly perform any service directly related to the operation of any unlicensed adult-oriented establishment.

(5) All existing adult-oriented establishments at the time of the passage of the ordinance comprising this chapter must submit an application for a license within one hundred twenty (120) days of the passage of the ordinance comprising this chapter on second and final reading. If a license is not issued within said one hundred twenty (120) day period, then such existing adult-oriented establishment shall cease operations.

(6) No license may be issued for any location unless the premises are lawfully zoned for adult-oriented establishments and unless all requirements of the zoning ordinance are complied with. (as added by Ord. #504, Nov. 2007)

9-803. Application for license. (1) Any person, partnership, or corporation desiring to secure a license shall make application to the Public Safety Director of the Town of Huntingdon. The application shall be filed in triplicate with and dated by the public safety director. A copy of the application shall be distributed promptly by the public safety director, to the town recorder and to the applicant.

(2) An applicant for a license including any partner or limited partner of the partnership applicant, and any officer or director of the corporate applicant and any stockholder holding more than five percent (5%) of the stock of a corporate applicant, or any other person who is interested directly in the ownership or operation of the business (including but not limited to all holders of any interest in land of members of any limited liability company) shall furnish the following information under oath:

- (a) Name and addresses, including all aliases.
- (b) Written proof that the individual(s) is at least eighteen (18) years of age.
- (c) All residential addresses of the applicant(s) for the past three (3) years.
- (d) The applicants' height, weight, color of eyes and hair.
- (e) The business, occupation or employment of the applicant(s) for five (5) years immediately preceding the date of the application.
- (f) Whether the applicant(s) previously operated in this or any other county, city or state under an adult-oriented establishment license or similar business license; whether the applicant(s) has ever had such a license revoked or suspended, the reason therefore, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.
- (g) All criminal statutes, whether federal or state, or city ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
- (h) Fingerprints and two (2) portrait photographs at least two inches by two inches (2" x 2") of each applicant.
- (i) The address of the adult-oriented establishment to be operated by the applicant(s).
- (j) The names and addresses of all persons, partnerships, limited liability entities, or corporations holding any beneficial interest in the real estate upon which such adult-oriented establishment is to be operated, including but not limited to, contract purchasers or sellers, beneficiaries of land trust or lessees subletting to applicant.
- (k) If the premises are leased or being purchased under contract, a copy of such lease or contract shall accompany the application.
- (l) The length of time each applicant has been a resident of the Town of Huntingdon, or its environs, immediately preceding the date of the application.

(m) If the applicant is a limited liability entity, the applicant shall specify the name, the date and state of organization, the name and address of the registered agent and the name and address of each member of the limited liability entity.

(n) A statement by the applicant that he or she is familiar with the provisions of this chapter and is in compliance with them.

(o) All inventory, equipment, or supplies which are to be leased, purchased, held in consignment or in any other fashion kept on the premises or any part or portion thereof for storage, display, any other use therein, or in connection with the operation of said establishment, or for resale, shall be identified in writing accompanying the application specifically designating the distributor business name, address phone number, and representative's name.

(p) Evidence in form deemed sufficient to the city that the location for the proposed adult-oriented establishment complies with all requirements of the zoning ordinances as now existing or hereafter amended.

(3) Within ten (10) days of receiving the results of the investigation conducted by the Huntingdon Police Department, the public safety director shall notify the applicant that his/her application is conditionally granted, denied or held for further investigation. Such additional investigation shall not exceed thirty (30) days unless otherwise agreed to by the applicant. Upon conclusion of such additional investigation, the public safety director shall advise the applicant in writing whether the application is granted or denied. All licenses shall be further held pending consideration of the required special use zoning permit by the town council.

(4) Whenever an application is denied or held for further investigation, the public safety director shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter before the town council at which time the applicant may present evidence as to why his/her license should not be denied. The council shall hear evidence as to the basis of the denial and shall affirm or reject the denial of any application at the hearing. If any application for an adult-oriented establishment license is denied by the town council and no agreement is reached with the applicant concerning the basis for denial, the city attorney shall institute suit for declaratory judgment in the Chancery Court of Carroll County, Tennessee, within five (5) days of the date of any such denial and shall seek an immediate judicial determination of whether such license or permit may be properly denied under the law.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he

or she is ineligible for such license and shall be grounds for denial thereof by the public safety director. (as added by Ord. #504, Nov. 2007)

9-804. Standards for issuance of license. (1) To receive a license to operate an adult-oriented establishment, an applicant must meet the following standards:

(a) If the applicant is an individual:

(i) The applicant shall be at least eighteen (18) years of age.

(ii) The applicant shall not have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

(iii) The applicant shall not have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.

(b) If the applicant is a corporation:

(i) All officers, directors and stockholders required to be named under § 9-803 shall be at least eighteen (18) years of age.

(ii) No officer, director or stockholder required to be named under § 9-803 shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of application.

(c) If the applicant is a partnership, joint venture, limited liability entity, or any other type of organization where two (2) or more persons have a financial interest:

(i) All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least eighteen (18) years of age.

(ii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

(iii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.

(2) No license shall be issued unless the Huntingdon Police Department has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the public safety

director no later than twenty (20) days after the date of the application. (as added by Ord. #504, Nov. 2007)

9-805. Permit required. In addition to the license requirements previously set forth for owners and operators of "adult-oriented establishments," no person shall be an employee or entertainer in an adult-oriented establishment without first obtaining a valid permit issued by the police chief. (as added by Ord. #504, Nov. 2007)

9-806. Application for permit. (1) Any person desiring to secure a permit shall make application to the public safety director. The application shall be filed in triplicate with and dated by the police chief. A copy of the application shall be distributed promptly by the public safety director, to the town recorder and to the applicant.

(2) The application for a permit shall be upon a form provided by the public safety director. An applicant for a permit shall furnish the following information under oath:

(a) Name and address, including all aliases.

(b) Written proof that the individual is at least eighteen (18) years of age.

(c) All residential addresses of the applicant for the past three (3) years.

(d) The applicant's height, weight, color of eyes, and hair.

(e) The business, occupation or employment of the applicant for five (5) years immediately preceding the date of the application.

(f) Whether the applicant, while previously operating in this or any other city or state under an adult-oriented establishment permit or similar business for whom applicant was employed or associated at the time, has ever had such a permit revoked or suspended, the reason therefore, and the business entity or trade name for whom the applicant was employed or associated at the time of such suspension or revocation.

(g) All criminal statutes, whether federal, state or city ordinance violation, convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.

(h) Fingerprints and two (2) portrait photographs at least two inches by two inches (2" x 2") of the applicant.

(i) The length of time the applicant has been a resident of the Town of Huntingdon, or its environs, immediately preceding the date of the application.

(j) A statement by the applicant that he or she is familiar with the provisions of this chapter and is in compliance with them.

(3) Within ten (10) days of receiving the results of the investigation conducted by the Huntingdon Police Department, the public safety director shall notify the applicant that his application is granted, denied, or held for further

investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigations, the public safety director shall advise the applicant in writing whether the application is granted or denied.

(4) Whenever an application is denied or held for further investigation, the police chief shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter before the town council at which time the applicant may present evidence bearing upon the question.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof by the public safety director. (as added by Ord. #504, Nov. 2007)

9-807. Standards for issuance of permit. (1) To receive a permit as an employee or entertainer, an applicant must meet the following standards:

(a) The applicant shall be at least eighteen (18) years of age.

(b) The applicant shall not have been convicted of or pleaded no contest to a felony or any crime involving moral turpitude or prostitution, obscenity or other crime of a sexual nature (including violation of similar adult-oriented establishment laws or ordinances) in any jurisdiction within five (5) years immediately preceding the date of the application.

(c) The applicant shall not have been found to violate any provision of this chapter within five (5) years immediately preceding the date of the application.

(2) No permit shall be issued until the Huntingdon Police Department has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the public safety director not later than twenty (20) days after the date of the application. (as added by Ord. #504, Nov. 2007)

9-808. Fees. (1) A license fee of five hundred dollars (\$500.00) shall be submitted with the application for a license. If the application is denied, one-half (1/2) of the fee shall be returned.

(2) A permit fee of one hundred dollars (\$100.00) shall be submitted with the application for a permit. If the application is denied, one-half (1/2) of the fee shall be returned. (as added by Ord. #504, Nov. 2007)

9-809. Display of license or permit. (1) The license shall be displayed in a conspicuous public place in the adult-oriented establishment.

(2) The permit shall be carried by an employee and/or entertainer upon his or her person and shall be displayed upon request of a customer, any member of the Huntingdon Police Department, or any person designated by the town council. (as added by Ord. #504, Nov. 2007)

9-810. Renewal of license or permit. (1) Every license issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the public safety director. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be filed in triplicate with and dated by the public safety director. A copy of the application for renewal shall be distributed promptly by the public safety director, to the town recorder and to the operator. The application for renewal shall be a form provided by the public safety director and shall contain such information and data, given under oath or affirmation, as may be required by the town council.

(2) A license renewal fee of five hundred dollars (\$500.00) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of one hundred dollars (\$100.00) shall be assessed against the applicant who files for a renewal less than sixty (60) days before the license expires. If the application is denied, one-half (1/2) of the total fees collected shall be returned.

(3) If the Huntingdon Police Department is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the public safety director.

(4) Every permit issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance unless sooner revoked, and must be renewed before an employee and/or entertainer is allowed to continue employment in an adult-oriented establishment in the following calendar year. Any employee and/or entertainer desiring to renew a permit shall make application to the public safety director. The application for renewal must be filed not later than sixty (60) days before the permit expires. The application for renewal shall be filed in triplicate with and dated by the public safety director. A copy of the application for renewal shall be distributed promptly by the public safety director, to the town recorder and to the employee. The application for renewal shall be upon a form provided by the public safety director and shall contain such information and data, given under oath or affirmation, as may be required by the town council.

(5) A permit renewal fee of one hundred dollars (\$100.00) shall be submitted with the application for renewal. In addition to said renewal fee, a late penalty of fifty dollars (\$50.00) shall be assessed against the applicant who files for renewal less than sixty (60) days before the license expires. If the application is denied one-half (1/2) of the fee shall be returned.

(6) If the Huntingdon Police Department is aware of any information bearing on the employee's qualifications, that information shall be filed in writing with the public safety director. (as added by Ord. #504, Nov. 2007)

9-811. Revocation of license or permit. (1) The public safety director shall revoke a license or permit for any of the following reasons:

(a) Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.

(b) The operator, entertainer, or any employee of the operator, violates any provision of this chapter or any rule or regulation adopted by the town council pursuant to this chapter; provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of thirty (30) days if the town council shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.

(c) The operator or employee becomes ineligible to obtain a license or permit.

(d) Any cost or fee required to be paid by this chapter is not paid.

(e) An operator employs an employee who does not have a permit or provide space on the premises, whether by lease or otherwise, to an independent contractor who performs or works as an entertainer without a permit.

(f) Any intoxicating liquor, cereal malt beverage, narcotic or controlled substance is allowed to be sold or consumed on the licensed premises.

(g) Any operator, employee or entertainer sells, furnishes, gives or displays, or causes to be sold, furnished, given or displayed to any minor any adult-oriented entertainment or adult-oriented material.

(h) Any operator, employee or entertainer denies access of law enforcement personnel to any portion of the licensed premises wherein adult-oriented entertainment is permitted or to any portion of the licensed premises wherein adult-oriented material is displayed or sold.

(i) Any operator allows continuing violations of the rules and regulations of the Carroll County Health Department.

(j) Any operator fails to maintain the licensed premises in a clean, sanitary and safe condition.

(k) Any minor is found to be loitering about or frequenting the premises.

(2) The public safety director, before revoking or suspending any license or permit, shall give the operator or employee at least ten (10) days' written notice of the charges against him or her and the opportunity for a public

hearing before the town council, at which time the operator or employee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing.

(3) The transfer of a license or any interest in a license shall automatically and immediately revoke the license. The transfer of any interest in a non-individual operator's license shall automatically and immediately revoke the license held by the operator. Such license shall thereby become null and void.

(4) Any operator or employee whose license or permit is revoked shall not be eligible to receive a license or permit for five (5) years from the date of revocation. No location or premises for which a license has been issued shall be used as an adult-oriented establishment for two (2) years from the date of revocation of the license. (as added by Ord. #504, Nov. 2007)

9-812. Hours of operation. (1) No adult-oriented establishment shall be open between the hours of 1:00 A.M. and 8:00 A.M. Mondays through Saturdays, and between the hours of 1:00 A.M. and 12:00 P.M. on Sundays.

(2) All adult-oriented establishments shall be open to inspection at all reasonable times by the Huntingdon Police Department, the Carroll County Sheriff's Department, or such other persons as the town council may designate. (as added by Ord. #504, Nov. 2007)

9-813. Responsibilities of the operator. (1) The operator shall maintain a register of all employees and/or entertainers showing the name, and aliases used by the employee, home address, age, birth date, sex, height, weight, color of hair and eyes, phone numbers, social security number, date of employment and termination, and duties of each employee and such other information as may be required by the town council. The above information on each employee shall be maintained in the register on the premises for a period of three (3) years following termination.

(2) The operator shall make the register of the employees available immediately for inspection by police upon demand of a member of the Huntingdon Police Department at all reasonable times.

(3) Every act or omission by an employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

(4) An operator shall be responsible for the conduct of all employees and/or entertainers while on the licensed premises and any act or omission of any employees and/or entertainer constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator for purposes of

determining whether the operator's license shall be revoked, suspended or renewed.

(5) There shall be posted and conspicuously displayed in the common areas of each adult-oriented establishment a list of any and all entertainment provided on the premises. Such list shall further indicate the specific fee or charge in dollar amounts for each entertainment listed. Viewing adult-oriented motion pictures shall be considered as entertainment. The operator shall make the list available immediately upon demand of the Huntingdon Police Department at all reasonable times.

(6) No employee of an adult-oriented establishment shall allow any minor to loiter around or to frequent an adult-oriented establishment or to allow any minor to view adult entertainment as defined herein.

(7) Every adult-oriented establishment shall be physically arranged in such a manner that the entire interior portion of the booths, cubicles, rooms or stalls, wherein adult entertainment is provided, shall be visible from the common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, partitions, drapes, or any other obstruction whatsoever. It shall be unlawful to install booths, cubicles, rooms or stalls within adult-oriented establishments for whatever purpose, but especially for the purpose of secluded viewing of adult-oriented motion pictures or other types of adult entertainment.

(8) The operator shall be responsible for and shall provide that any room or area used for the purpose of viewing adult-oriented motion pictures or other types of live adult entertainment shall be readily accessible at all times and shall be continuously opened to view in its entirety.

(9) No operator, entertainer, or employee of an adult-oriented establishment shall demand or collect all or any portion of a fee for entertainment before its completion.

(10) A sign shall be conspicuously displayed in the common area of the premises, and shall read as follows:

"This Adult-Oriented Establishment is regulated by the Town of Huntingdon Municipal Code. Entertainers are:

1. Not permitted to engage in any type of sexual conduct;
2. Not permitted to expose their sex organs;
3. Not permitted to demand or collect all or any portion of a fee for entertainment before its completion." (as added by Ord. #504, Nov. 2007)

9-814. Prohibitions and unlawful sexual acts. (1) No operator, entertainer, or employee of an adult-oriented establishment shall permit to be performed, offer to perform, perform or allow customers, employees or entertainers to perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia.

(2) No operator, entertainer, or employee shall encourage or permit any person upon the premises to touch, caress, or fondle the breasts, buttocks, anus or genitals of any other person.

(3) No operator, entertainer, or employee shall encourage or permit any other person upon the premises to touch, caress, or fondle his or her breasts, buttocks, anus or genitals of any other person.

(4) No operator, entertainer, employee, or customer shall be unclothed or in such attire, costume, or clothing so as to expose to view any portion of the sex organs, breasts or buttocks of said operator, entertainer, or employee with the intent to arouse or gratify the sexual desires of the operator, entertainer, employee or customer.

(5) No entertainer, employee or customer shall be permitted to have any physical contact with any other on the premises during any performance and all performances shall only occur upon a stage at least eighteen (18") inches above the immediate floor level and removed six feet (6') from the nearest entertainer, employee and/or customer. (as added by Ord. #504, Nov. 2007)

9-815. Penalties and prosecution. (1) Any person, partnership, corporation, or other business entity that is found to have violated this chapter shall be fined a definite sum not exceeding fifty dollars (\$50.00) for each violation and shall result in the suspension or revocation of any permit or license.

(2) Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one (1) hour of time shall be considered a separate offense for each hour of violation. (as added by Ord. #504, Nov. 2007)

9-816. Invalidity of part. Should any court of competent jurisdiction declare any section, clause, or provision of this chapter to be unconstitutional, such decision shall affect only such section, clause, or provision so declared unconstitutional, and shall not affect any other section, clause or provision of this chapter. (as added by Ord. #504, Nov. 2007)

TITLE 10

ANIMAL CONTROL¹

CHAPTER

1. IN GENERAL.
2. DOGS.

CHAPTER 1

IN GENERAL

SECTION

- 10-101. Running at large prohibited.
- 10-102. Keeping near a residence or business restricted.
- 10-103. Pen or enclosure to be kept clean.
- 10-104. Adequate food, water, and shelter, etc., to be provided.
- 10-105. Keeping in such manner as to become a nuisance prohibited.
- 10-106. Cruel treatment prohibited.
- 10-107. Seizure and disposition of animals.

10-101. Running at large prohibited. It shall be unlawful for any person owning or being in charge of any cows, swine, sheep, horses, mules, goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle, or livestock, knowingly or negligently to permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits. (1978 Code, § 3-101)

10-102. Keeping near a residence or business restricted. No person shall keep any animal or fowl enumerated in the preceding section to come within one thousand (1,000) feet of any residence, place of business, or public street without a permit from the health officer. The health officer, animal warden or other official designated by the council, shall issue a permit only when in his sound judgment the keeping of such an animal in a yard or building under the circumstances as set forth in the application for the permit will not injuriously affect the public health. (1978 Code, § 3-102)

10-103. Pen or enclosure to be kept clean. When animals or fowls are kept within the corporate limits, the building, structure, corral, pen, or enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition. (1978 Code, § 3-103)

¹Charter reference

Regulation of animals and fowls: § 1.04(o).

10-104. Adequate food, water, and shelter, etc., to be provided. No animal or fowl shall be kept or confined in any place where the food, water, shelter, and ventilation are not adequate and sufficient for the preservation of its health, safe condition, and wholesomeness for food if so intended.

All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle. (1978 Code, § 3-104)

10-105. Keeping in such manner as to become a nuisance prohibited. No animal or fowl shall be kept in such a place or condition as to become a nuisance either because of noise, odor, contagious disease, or other reason. (1978 Code, § 3-105)

10-106. Cruel treatment prohibited. It shall be unlawful for any person to beat or otherwise abuse or injure any dumb animal or fowl. (1978 Code, § 3-106)

10-107. Seizure and disposition of animals. Any animal or fowl found running at large or otherwise being kept in violation of this chapter may be seized by the health officer, animal warden, any police officer, or other official designated by the council, and confined in a pound provided or designated by the town council. If the owner is known he shall be given notice in person, by telephone, or by a postcard addressed to his last-known mailing address. If the owner is not known or cannot be located, a notice describing the impounded animal or fowl will be posted in at least three (3) public places within the corporate limits. In either case the notice shall state that the impounded animal or fowl must be claimed within five (5) days by paying the pound costs or the same will be humanely destroyed or sold. If not claimed by the owner, the animal or fowl shall be sold or humanely destroyed, or it may otherwise be disposed of as authorized by the town council.

The pound keeper shall be entitled to collect from each person claiming an impounded animal or fowl a reasonable fee to cover the costs of impoundment and maintenance. (1978 Code, § 3-107)

CHAPTER 2

DOGS

SECTION

- 10-201. Rabies vaccination and registration required.
- 10-202. Dogs to wear tags.
- 10-203. Dogs running at large and/or creating a nuisance prohibited.
- 10-204. Vicious dogs to be securely restrained.
- 10-205. Noisy dogs prohibited.
- 10-206. Confinement of dogs suspected of being rabid.
- 10-207. Apprehension and disposition of dogs
- 10-208. Fees.
- 10-209. Dogs to be neutered.
- 10-210. Female dogs coming in heat.
- 10-211. Fines for violation of this chapter.

10-201. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor any dog within the corporate limits of the Town of Huntingdon without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law" (Tennessee Code Annotated, §§ 68-8-101 to 68-8-114) or other applicable law. (1978 Code, § 3-201)

10-202. Dogs to wear tags. It shall be unlawful for any person to own, keep, or harbor any dog within the corporate limits of the Town of Huntingdon which does not wear a tag evidencing the vaccination and registration required by the preceding section. (1978 Code, § 3-202)

10-203. Dogs running at large and/or creating a nuisance prohibited. (1) It shall be unlawful for any person having a right of property in a dog, or who keeps or harbors a dog, or who has it in his care, or acts as its custodian, or who permits a dog to remain on or about any premises occupied or controlled by such person, to allow such animal to run at large off the premises of said person unless the animal is under such control so as to reasonably provide for the protection of persons, other animals, or property by means of a leash, cord or chain secured to an adequate stationary object or to the hand of the owner or other qualified person so that it shall not be able to bite or injure any person or animal, or damage any property. Further, if said animal is on the premises of said person but outside of adequate fencing or other restraining device, said animal shall be under the direct supervision and control of said person or his agent of responsible age.

(2) It shall be unlawful to keep a dog in such a manner, place, or condition so as to become a nuisance either because of noise, odor, contagious disease, or other offensive habits or reason.

(3) For the purpose of this chapter a dog shall be defined as any member of the canine family three (3) months or more of age. (1978 Code, § 3-203)

10-204. Vicious dogs to be securely restrained. It shall be unlawful for any person to own or keep any dog known to be vicious or dangerous within the corporate limits of the Town of Huntingdon unless such dog is so confined and/or otherwise securely restrained as to provide reasonably for the protection of other animals and persons. (1978 Code, § 3-204)

10-205. Noisy dogs prohibited. No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, disturbs the peace and quiet of any neighborhood. (1978 Code, § 3-205)

10-206. Confinement of dogs suspected of being rabid. If any dog has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, a state or county health officer, the animal warden, any police officer or other official designated by the council may cause such dog to be confined or isolated for such time as he deems reasonably necessary to determine if such dog is rabid. (1978 Code, § 3-206)

10-207. Apprehension and disposition of dogs. Any dog found running at large and/or creating a nuisance may be seized by the animal warden, any police officer, or other official designated by the council, and placed in a pound provided or designated by the town council. If said dog is wearing a tag, the owner shall be notified in person, by telephone, or by a postcard addressed to his last known mailing address, to appear within five (5) days and redeem his dog by paying the apprehension fee and boarding fee established by this chapter, or the dog will be humanely destroyed or sold. If said dog is not wearing a tag it shall be humanely destroyed or sold unless legally claimed by the owner within two (2) days. No dog shall be released in any event from the pound unless or until such dog has been vaccinated and has a tag evidencing such vaccination placed on its collar. The owner shall be responsible for paying the vaccination fee. When, because of its viciousness or apparent infection with rabies, a dog found running at large cannot be safely apprehended and impounded, it may be summarily destroyed by the animal warden or any policeman.¹

¹State law reference

For a Tennessee Supreme Court case upholding the summary destruction of dogs pursuant to appropriate legislation, see Darnell v. Shapard, 156 Tenn. 544, 3 S.W. 2d 661 (1928).

For these purposes the animal warden, any police officer, or other official designated by the council, shall hereby be authorized to utilize tranquilizer dart guns, or other capture devices in the apprehension or destruction of same. (1978 Code, § 3-207)

10-208. Fees. (1) Apprehension and impoundment fees shall be:

- (a) \$25.00 for the first pick-up;
- (b) \$35.00 for the second pick-up;
- (c) Sited into court for the third pickup.

(2) Should the dog require services of a veterinarian or other professional animal services while in the custody of the town, the cost of such services shall be added to the apprehension and impoundment fees. (1978 Code, § 3-208, as replaced by Ord. #496, Sept. 2006)

10-209. Dogs to be neutered. Dogs which are to be released from the animal shelter for adoption by a new owner shall be neutered by a competent veterinarian, and the cost of which shall be added to any impoundment fees and paid by the new owner(s). (1978 Code, § 3-209)

10-210. Female dogs coming in heat. All female dogs within the town upon coming in heat, shall be kept in a secure enclosure or under complete control by the owner for a minimum period of twenty-one (21) days beginning the first day the evidence of attraction is noticeable to the owner. Any such female dog running loose, with or without the tags evidencing vaccination and registration, demonstrating evidence of attraction, shall be picked up by the animal warden and confined in a separate compartment at the impoundment facility. If said dog is wearing a tag, the owner shall be notified by telephone or by postcard addressed to his last known mailing address, to appear within five (5) days and redeem his dog by paying the apprehension fee and boarding fee established by this chapter, or the dog will be humanely destroyed or sold. If said dog is not wearing a tag, it shall be humanely destroyed or sold unless legally claimed by the owner within two (2) days. (1978 Code, § 3-210)

10-211. Fines for violation of this chapter. The animal warden, any police officer or other official designated by the council shall have the authority to investigate all violations observed by him, and to investigate all complaints filed by any person. Any owner found guilty of violating any section of this chapter may, upon conviction, be fined from one dollar (\$1.00) to fifty dollars (\$50.00). (1978 Code, § 3-211)

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

1. ALCOHOL.
2. FORTUNE TELLING, ETC.
3. OFFENSES AGAINST THE PERSON.
4. OFFENSES AGAINST THE PEACE AND QUIET.
5. INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL.
6. FIREARMS, WEAPONS AND MISSILES.
7. TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC.
8. MISCELLANEOUS.
9. MUNICIPAL OFFENSES.
10. FINANCIAL RESPONSIBILITY LAW.
11. AUTOMATED TRAFFIC SIGNAL AND SPEED ENFORCEMENT SYSTEMS.
12. ENGINE COMPRESSION BRAKING DEVICES.

CHAPTER 1

ALCOHOL²

SECTION

- 11-101. Drinking beer, etc., on streets, etc.
11-102. Minors in beer places.

11-101. Drinking beer, etc., on streets, etc. It shall be unlawful for any person to drink or consume, or have an open container of beer or intoxicating liquor in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground, or other public place unless the place has an

¹Municipal code references

Animals and fowls: title 10.

Housing and utilities: title 12.

Fireworks and explosives: title 7.

Traffic offenses: title 15.

Streets and sidewalks (non-traffic): title 16.

²Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

State law reference

See Tennessee Code Annotated § 33-8-203 (Arrest for Public Intoxication, cities may not pass separate legislation).

appropriate permit and/or license for on premises consumption. (1978 Code, § 10-228)

11-102. Minors in beer places. No minor shall loiter in or around, work in, or otherwise frequent any place where beer is sold at retail for consumption on the premises. (1978 Code, § 10-222)

CHAPTER 2**FORTUNE TELLING, ETC.****SECTION**

11-201. Fortune telling, etc.

11-201. Fortune telling, etc. It shall be unlawful for any person to conduct the business of, solicit for, or ply the trade of fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers. (1978 Code, § 10-234, modified)

CHAPTER 3

OFFENSES AGAINST THE PERSON

SECTION

11-301. Assault and battery.

11-301. Assault and battery. It shall be unlawful for any person to commit an assault or an assault and battery upon any person. (1978 Code, § 10-201)

CHAPTER 4

OFFENSES AGAINST THE PEACE AND QUIET**SECTION**

11-401. Disturbing the peace.

11-402. Anti-noise regulations.

11-401. Disturbing the peace. No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control. (1978 Code, § 10-202)

11-402. Anti-noise regulations. Subject to the provisions of this section, the creating of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare is prohibited.

(1) **Miscellaneous prohibited noises enumerated.** The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this section, but this enumeration shall not be deemed to be exclusive, namely:

(a) **Blowing horns.** The sounding of any horn or other device on any automobile, motorcycle, bus, truck, or other vehicle while not in motion except as a danger signal if another vehicle is approaching, apparently out of control, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.

(b) **Radios, phonographs, etc.** The playing of any radio, phonograph, or any musical instrument or sound device, including but not limited to loudspeakers or other devices for reproduction or amplification of sound, either independently of or in connection with motion pictures, radio, or television, in such a manner or with such volume, particularly during the hours between 11:00 P.M. and 7:00 A.M., as to annoy or disturb the quiet, comfort, or repose of persons in any office or hospital, or in any dwelling, hotel, or other type of residence, or of any person in the vicinity.

(c) **Yelling, shouting, etc.** Yelling, shouting, whistling, or singing on the public streets, particularly between the hours of 11:00 P.M. and 7:00 A.M., or at any time or place so as to annoy or disturb the

quiet, comfort, or repose of any persons in any hospital, dwelling, hotel, or other type of residence, or of any person in the vicinity.

(d) Pets. The keeping of any animal, bird, or fowl which by causing frequent or long continued noise shall disturb the comfort or repose of any person in the vicinity.

(e) Use of vehicle. The use of any automobile, motorcycle, truck, or vehicle so out of repair, so loaded, or in such manner as to cause loud and unnecessary grating, grinding, rattling, or other noise.

(f) Blowing whistles. The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper municipal authorities.

(g) Exhaust discharge. To discharge into the open air the exhaust of any steam engine, stationary internal combustion engine, motor vehicle, or boat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(h) Building operations. The erection (including excavation), demolition, alteration, or repair of any building in any residential area or section or the construction or repair of streets and highways in any residential area or section, other than between the hours of 7:00 A.M. and 6:00 P.M. on week days, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector granted for a period while the emergency continues not to exceed thirty (30) days. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration, or repair of any building or the excavation of streets and highways between the hours of 6:00 P.M. and 7:00 A.M., and if he shall further determine that loss or inconvenience would result to any party in interest through delay, he may grant permission for such work to be done between the hours of 6:00 P.M. and 7:00 A.M. upon application being made at the time the permit for the work is awarded or during the process of the work.

(i) Noises near schools, hospitals, churches, etc. The creation of any excessive noise on any street adjacent to any hospital or adjacent to any school, institution of learning, church, or court while the same is in session.

(j) Loading and unloading operations. The creation of any loud and excessive noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates, and other containers.

(k) Noises to attract attention. The use of any drum, loudspeaker, or other instrument or device emitting noise for the purpose of attracting attention to any performance, show, or sale or display of merchandise.

(1) Loudspeakers or amplifiers on vehicles. The use of mechanical loudspeakers or amplifiers on trucks or other moving or standing vehicles for advertising or other purposes.

(2) Exceptions. None of the terms or prohibitions hereof shall apply to or be enforced against:

(a) Municipal vehicles. Any vehicle of the town while engaged upon necessary public business.

(b) Repair of streets, etc. Excavations or repairs of bridges, streets, or highways at night, by or on behalf of the town, the county, or the state, when the public welfare and convenience renders it impracticable to perform such work during the day.

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the recorder. Hours for the use of an amplifier or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit. (1978 Code, § 10-233)

CHAPTER 5

INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

SECTION

11-501. Escape from custody or confinement.

11-502. Impersonating a government officer or employee.

11-503. False emergency alarms.

11-504. Resisting or interfering with town personnel.

11-505. Coercing people not to work.

11-501. Escape from custody or confinement. It shall be unlawful for any person under arrest or otherwise in custody of or confined by the town to escape or attempt to escape, or for any other person to assist or encourage such person to escape or attempt to escape from such custody or confinement. (1978 Code, § 10-209)

11-502. Impersonating a government officer or employee. No person other than an official police officer of the town shall wear the uniform, apparel, or badge, or carry any identification card or other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the official police officers of the town. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee. (1978 Code, § 10-211)

11-503. False emergency alarms. It shall be unlawful for any person intentionally to make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance, or to aid or abet in the commission of such act. (1978 Code, § 10-217)

11-504. Resisting or interfering with town personnel. It shall be unlawful for any person knowingly to resist or in any way interfere with or attempt to interfere with any officer or employee of the town while such officer or employee is performing or attempting to perform his municipal duties. (1978 Code, § 10-210)

11-505. Coercing people not to work. It shall be unlawful for any person in association or agreement with any other person to assemble, congregate, or meet together in the vicinity of any premises where other persons are employed or reside for the purpose of inducing any such other person by threats, coercion, intimidation, or acts of violence to quit or refrain from entering a place of lawful employment. It expressly is not the purpose of this section to prohibit peaceful picketing. (1978 Code, § 10-230)

CHAPTER 6**FIREARMS, WEAPONS AND MISSILES****SECTION**

11-601. Air rifles, etc.

11-602. Throwing missiles.

11-603. Discharge of firearms.

11-601. Air rifles, etc. It shall be unlawful for any person in the town to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a metal bullet or pellet, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. (1978 Code, § 10-213)

11-602. Throwing missiles. It shall be unlawful for any person to throw maliciously any stone, snowball, bottle, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person. (1978 Code, § 10-214)

11-603. Discharge of firearms. It shall be unlawful for any unauthorized person to discharge a firearm within the corporate limits. (1978 Code, § 10-212, modified)

CHAPTER 7

**TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE
WITH TRAFFIC****SECTION**

- 11-701. Trespassing.
- 11-702. Trespassing on trains.
- 11-703. Malicious mischief.
- 11-704. Interference with traffic.

11-701. Trespassing. The owner or person in charge of any lot or parcel of land or any building or other structure within the corporate limits may post the same against trespassers. It shall be unlawful for any person to go upon any such posted lot or parcel of land or into any such posted building or other structure without the consent of the owner or person in charge.

It shall also be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to leave promptly the private premises of any person who requests or directs him to leave. (1978 Code, § 10-226)

11-702. Trespassing on trains. It shall be unlawful for any person to climb, jump, step, stand upon, or cling to, or in any other way attach himself to any locomotive engine or railroad car unless he works for the railroad corporation and is acting the scope of his employment or unless he is a lawful passenger or is otherwise lawfully entitled to be on such vehicle. (1978 Code, § 10-221)

11-703. Malicious mischief. It shall be unlawful and deemed to be malicious mischief for any person willfully, maliciously, or wantonly to damage, deface, destroy, conceal, tamper with, remove, or withhold real or personal property which does not belong to him. (1978 Code, § 10-225)

11-704. Interference with traffic. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere unreasonably with the free passage of pedestrian or vehicular traffic thereon. (1978 Code, § 10-232)

CHAPTER 8

MISCELLANEOUS

SECTION

11-801. Abandoned refrigerators, etc.

11-802. Caves, wells, cisterns, etc.

11-803. Posting notices, etc.

11-804. Curfew for minors.

11-805. Wearing masks.

11-806. Prohibiting the placement of basketball goals alongside or within public rights-of-way.

11-801. Abandoned refrigerators, etc. It shall be unlawful for any person to leave in any place accessible to children any abandoned, unattended, unused, or discarded refrigerator, icebox, or other container with any type latching or locking door without first removing therefrom the latch, lock, or door. (1978 Code, § 10-223)

11-802. Caves, wells, cisterns, etc. It shall be unlawful for any person to permit to be maintained on property owned or occupied by him any cave, well, cistern, or other such opening in the ground, which is dangerous to life and limb, without an adequate cover or safeguard. (1978 Code, § 10-231)

11-803. Posting notices, etc. No person shall fasten, in any way, any show-card, poster, or other advertising device upon any public or private property unless legally authorized to do so. (1978 Code, § 10-227)

11-804. Curfew for minors. It shall be unlawful for any person, under the age of eighteen (18) years, to be abroad at night between 11:00 P.M. and 5:00 A.M. unless going directly to or from a lawful activity or upon a legitimate errand for, or accompanied by, a parent, guardian, or other adult person having lawful custody of such minor. (1978 Code, § 10-224)

11-805. Wearing masks. It shall be unlawful for any person to appear on or in any public way or place while wearing any mask, device, or hood whereby any portion of the face is so hidden or covered as to conceal the identity of the wearer. The following are exempted from the provisions of this section:

(1) Children under the age of ten (10) years.

(2) Workers while engaged in work wherein a face covering is necessary for health and/or safety reasons.

(3) Persons wearing gas masks in civil defense drills and exercises or emergencies.

(4) Any person having a special permit issued by the recorder to wear a traditional holiday costume. (1978 Code, § 10-235)

11-806. Prohibiting the placement of basketball goals alongside or within public rights-of-way. No portable or fixed basketball goal shall be placed, erected or maintained on or alongside the right-of-way of any public street with the municipal limits of the Town of Huntingdon so as to allow a person or persons to play within the street. The placement of any basketball goal within a public right-of-way or the presence of persons within a public street playing basketball on such a goal shall be a violation of the Huntingdon Municipal Code. Any violation of this portion of the code shall be punishable by a fine of fifty dollars (\$50.00). (as added by Ord. #471, June 2004)

CHAPTER 9

MUNICIPAL OFFENSES

SECTION

11-901. Misdemeanors of the state adopted.

11-901. Misdemeanors of the state adopted. All offenses against the State of Tennessee which are committed within the corporate limits and which are defined by the state law or are recognized by the common law to be misdemeanors are hereby designated and declared to be offenses against the Town of Huntingdon also. Any violation of any such law within the corporate limits is also a violation of this section. (As added by Ord. #435, Oct. 2000)

CHAPTER 10

FINANCIAL RESPONSIBILITY LAW

SECTION

11-1001. Compliance with financial responsibility law required.

11-1002. Civil offense.

11-1003. Evidence of compliance after violation.

11-1001. Compliance with financial responsibility law required.

(1) Every vehicle operated within the corporate limits must be in compliance with the financial responsibility law.

(2) At the time the driver of a motor vehicle is charged with any moving violation under title 55, chapters 8 and 10 parts 1-5, chapter 50; any provision in this title of this municipal code; or at the time of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault.

(3) For the purposes of this section, "financial responsibility" means:

(a) Documentation, such as the declaration page of an insurance policy, an insurance binder, or an insurance card from an insurance company authorized to do business in Tennessee, stating that a policy of insurance meeting the requirements of the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been issued;

(b) A certificate, valid for one (1) year, issued by the commissioner of safety, stating that a cash deposit or bond in the amount required by the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been paid or filed with the commissioner, or has qualified as a self-insurer under Tennessee Code Annotated, § 55-12-111; or

(c) The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the department of safety or the interstate commerce commission, or was owned by the United States, the State of Tennessee or any political subdivision thereof, and that such motor vehicle was being operated with the owner's consent. (As added by Ord. #452, March 2002)

11-1002. Civil offense. It is a civil offense to fail to provide evidence of financial responsibility pursuant to this chapter. Any violation of this chapter is punishable by a civil penalty of up to fifty dollars (\$50). The civil penalty prescribed by this chapter shall be in addition to any other penalty prescribed

by the laws of this state or by the city's municipal code of ordinances. (As added by Ord. #452, March 2002)

11-1003. Evidence of compliance after violation. On or before the court date, the person charged with a violation of this chapter may submit evidence of compliance with this chapter in effect at the time of the violation. If the court is satisfied that compliance was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. (As added by Ord. #452, March 2002)

CHAPTER 11

**AUTOMATED TRAFFIC SIGNAL AND
SPEED ENFORCEMENT SYSTEMS**

SECTION

- 11-1101. Definitions.
- 11-1102. Administration.
- 11-1103. Offense.
- 11-1104. Procedure.
- 11-1105. Civil penalty.

11-1101. Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning.

- (1) "Citations and warning notices" shall include:
 - (a) The name and address of the registered owner of the vehicle;
 - (b) The registration license plate number of the motor vehicle involved in the violation;
 - (c) The violation charged;
 - (d) The location of the violation;
 - (e) The date and time of the violation;
 - (f) A copy of the recorded image;
 - (g) The amount of the civil penalty imposed and the date by which the civil penalty should be paid;
 - (h) A sworn statement by an officer or contractor of the Huntingdon Police Department that, based on inspection of recorded images, the motor vehicle was being operated in violation of the applicable enumerated sections of the Huntingdon Municipal Code; and
 - (i) A statement that recorded images are evidence of a violation of § 11-1103; and
 - (j) Information advising the person alleged to be liable under this section:
 - (i) Of the manner and time in which liability alleged in the citation occurred and that the citation may be contested in the Huntingdon Municipal Court; and
 - (ii) Warning that failure to contest in the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon.
- (2) "In operation" means operating in good working condition.
- (3) "Recorded images" means images recorded by a traffic control photographic system:
 - (a) On: (i) A photograph; or
 - (ii) A microphotograph; or

- (iii) An electronic image; or
- (iv) A videotape; or
- (v) Any other medium; and

(b) At least one (1) image or portion of the image, clearly identifying the registration number of the motor vehicle.

(4) "Stop line" is a transverse white marking at an approach to an intersection that indicates a point behind which all vehicles must stop when so required by a traffic control sign, signal or device.

(5) "System location" is on the roadway, or the approach to an intersection toward which a photographic, video or electronic camera is directed and is in operation.

(6) "Traffic control photographic system" is an electronic system consisting of a photographic, video or electronic camera and a vehicle sensor installed to work in conjunction with an official traffic control, sign, signal or device and to automatically produce photographs, video or digital images of each vehicle violating a standard traffic control sign, signal or device and posted speed limits.

(7) "Vehicle owner" is the person identified by the Tennessee Department of Safety as the registered owner of a motor vehicle or a lessee of a motor vehicle under a lease of six (6) months or more. (as added by Ord. #521, Dec. 2009)

11-1102. Administration. (1) The Huntingdon Police Department or an agent of the department shall administer the traffic control photographic and video systems and shall maintain a list of system locations where traffic control photographic systems are installed with the exception of the portable speed control unit. The town may contract with third parties to perform ministerial and clerical functions.

(2) Any citation or warning for a violation of § 11-1103 issued by an officer of the Huntingdon Police Department at a system location shall be treated in the manner prescribed in the chapter.

(3) No third party contractor shall have the authority to issue citations and no citations shall be issued except upon the review of the photograph(s), digital and/or video images by the Huntingdon Police Department. Upon review of such images by the Huntingdon Police Department, on each case, and upon express approval for the issuance of a citation by the Huntingdon Police Department, a third party contractor may perform ministerial and clerical functions of preparing, mailing, serving and/or processing citations.

(4) Signs to indicate the use of traffic control photographic systems shall be clearly posted. Signs to indicate the use of traffic control photographic systems shall be posted in advance of individual system locations and may be posted elsewhere in the town.

(5) All fines paid and/or collected shall be paid to the Town of Huntingdon.

(6) The Town of Huntingdon shall have all necessary power and authority to contractually provide for the purchase, lease, and rental acquisition and/or to enter a service contract(s) so as to fully and necessarily implement the provisions of the traffic control photographic system authorized hereby. (as added by Ord. #521, Dec. 2009)

11-1103. Offense. (1) It shall be unlawful for a vehicle to travel through a system location, in disregard or disobedience of the traffic control sign, signal or device at a rate of speed established or posted for any such system locations(s).

(2) It shall be unlawful for a vehicle to cross the stop line at a system location, in disregard or disobedience of the traffic control sign, signal or device at such location, or to otherwise violate any section of the Huntingdon Municipal Code with respect to obedience to traffic lights, stop signs or traffic signals.

The owner of a vehicle shall be responsible for a violation under this chapter, except as provided herein. When such owner provides evidence in accordance with the procedures set forth in § 11-1104(2) that the vehicle was in the care, custody or control of another person at the time of the violation, the person who had the care, custody and control of the vehicle at the time of the violation shall be responsible. (as added by Ord. #521, Dec. 2009)

11-1104. Procedure. (1) The city shall adopt procedures for the issuance of uniform citations and, if deemed appropriate, warning notices hereunder. Such system may include the use of third party contractors to perform ministerial tasks.

(2) A citation or warning notice so issued, alleging an offense hereunder in violation of title 11, chapter 11, title of the Huntingdon Municipal Code, which is sworn to or affirmed by an official of the Huntingdon Police Department based on inspection of recorded images produced by the traffic control photographic system, and which includes copies of such recorded images, shall be prima facie evidence of the facts contained therein and shall be admissible in any proceeding alleging a violation hereunder. The citation or warning notice shall be forwarded by first-class mail, postmarked not later than thirty (30) days after the date of the alleged violation, to the vehicle owner's address as given on the motor vehicle registration records maintained by the State of Tennessee Departments of Safety and other states motor vehicle registration departments. Personal delivery to or personal service of process on the owner of the vehicle will not be required.

(3) A person who receives a citation or warning notice may:

(a) Pay the assessed fine and civil penalty, in accordance with instructions on the citation or warning notice, directly to the city court clerk; or

(b) Elect to contest the citation for the alleged violation.

(4) Liability hereunder shall be determined based upon preponderance of the evidence. Admission into evidence of a citation or warning notice, together with proof that the defendant was at the time of the violation the registered owner of the vehicle, shall permit the trier of fact in its discretion to infer that such owner of the vehicle was the driver of the vehicle at the time of the alleged violation. Such an inference may be rebutted if the owner of the vehicle:

(a) Testifies under oath in open court that he or she was not the operator of the vehicle at the time of the alleged violation; and

(b) Submits to the court prior to the return date established on the citation and warning notice the owner's sworn notarized statement that the vehicle was in the care, custody or control of another person or entity at the time of the violation and accurately identifying the name and accurately stating the current address and relationship to or affiliation with the owner, of the person or entity who leased, rented or otherwise had such possession of the vehicle at the time of the alleged violation; or

(c) Presents to the court prior to the return date established on the citation and warning notice a certified copy of a police report showing that the vehicle had been reported to the police as stolen prior to the time of the alleged violation. (as added by Ord. #521, Dec. 2009)

11-1105. Civil penalty. (1) Any violation of this chapter shall be deemed a civil violation for which a civil penalty of fifty dollars (\$50.00) shall be assessed.

(2) Failure to pay the civil penalty by the designated date, or appear in court to contest the citation on the designated date, or to otherwise provide the information under § 11-1104(2)(b), (c), (d) or (e) shall be deemed an acknowledgment by the owner of an indebtedness to the Town of Huntingdon of fifty dollars (\$50.00) and shall result in an imposition of a judgment by default of fifty dollars (\$50.00). Such a default judgment will also result in the assessment of court costs and litigation tax as otherwise provided for under the Huntingdon Municipal Code for non-parking offenses. The town may collect this debt in the same manner as any other debt to the town.

(3) All revenues generated from penalties and assessments associated with the enforcement of this chapter shall go into the general fund, provide however that the town recorder shall be expressly authorized to pay such administration costs as are necessarily incurred and by contract authorized in or to implement and administer this system(s) hereby authorized.

(4) A violation for which a civil penalty is imposed under this section shall not be considered a moving violation and may not be recorded by the Huntingdon Police Department or the Tennessee Department of Safety on the driving record of the owner or driver of the vehicle and may not be considered in the provision of motor vehicle insurance coverage.

(5) All recorded images generated by the traffic control photograph system and portable speed photographic system, including, but not limited to, photographs, electronic images, and videotape, shall be solely owned by the Town of Huntingdon. (as added by Ord. #521, Dec. 2009)

CHAPTER 12

ENGINE COMPRESSION BRAKING DEVICES

SECTION

11-1201. Engine compression braking devices regulated.

11-1201. Engine compression braking devices regulated. (1) All truck tractor and semi-trailers operating within the Town of Huntingdon shall conform to the visual exhaust system inspection requirements, 40 CFR 202.22, of Interstate Motor Carriers Noise Emission Standards.

(2) A motor vehicle does not conform to the visual exhaust system inspection requirements referenced in subsection (1) of this section if inspection of the exhaust system of the motor carrier vehicle discloses that the system:

(a) Has a defect that adversely affects sound reduction, such as exhaust gas leaks or alterations or deteriorations of muffler elements. (Small traces of soot on flexible exhaust pipe sections shall not constitute a violation.);

(b) Is not equipped with either a muffler or other noise dissipative device, such as a turbocharger (supercharger driven by exhaust by gases); or

(c) Is equipped with a cut out, bypass, or similar device, unless such device is designed as an exhaust gas driven cargo unloading system.

(3) Violations of this chapter shall subject the offender to a fine of fifty dollars (\$50.00) per offense.

(4) This chapter shall be supplemental to other noise control ordinances and regulations of the city. (as added by Ord. #522, Jan. 2010)

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

1. BUILDING CODE.
2. PLUMBING CODE.
3. [DELETED.]
4. [DELETED.]
5. [DELETED.]
6. MODEL ENERGY CODE.
7. RESIDENTIAL CODE.
8. EXISTING BUILDING CODE.

CHAPTER 1

BUILDING CODE¹

SECTION

- 12-101. Building code adopted.
- 12-102. Modifications.
- 12-103. Available in recorder's office.
- 12-104. Violations.

12-101. Building code adopted. Pursuant to authority granted by Tennessee Code Annotated, § 6-54-501, et seq., and for the purpose of regulating the construction, alteration, repair, and demolition of every building or structure, or any appurtenance connected or attached to any building or structure, the 2009 edition of the International Building Code,² including all appendices thereto, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, except for the portion that requires sprinkle systems in one- and two-family dwellings and

¹Charter reference

Standards for building construction, electrical wiring, etc.: § 1.04(m).

Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

²Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

wherever the same may appear, which reference or references are hereby expressly deleted. (1978 Code, § 4-101, modified, as replaced by Ord. #528, Oct. 2010, and Ord. #530, April 2011)

12-102. Modifications. (1) Whenever the building code refers to the "Chief Appointing Authority" or the "Chief Administrator," it shall be deemed to be a reference to the mayor or town council, whichever the context requires. When the "building department," "building official," "inspectors," or "assistants" is named, it shall, for the purposes of the building code, mean such person as the mayor shall have appointed or designated to administer and enforce the provisions of the building code. Reference to the "Board of Adjustments and Appeals" shall be deemed a reference to the Unified Board of Codes Adjustments and Appeals, Town of Huntingdon.

(2) The building permit fees to be collected upon issuance of said permits, shall be as follows:

<u>Value of property</u>	<u>Fees</u>
\$0.00 - \$199.99	\$ 5.00
200.00 - 499.99	7.50
500.00 - 999.99	10.00
1,000.00 - 4,999.99	12.50
5,000.00 - 9,999.99	20.00
10,000.00 up	25.00 plus \$1.00 per one thousand over \$10,000.

(1978 Code, § 4-102, as replaced by Ord. #528, Oct. 2010)

12-103. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, §§ 6-54-502 and 6-54-503, one (1) copy of the building code with the above modifications has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1978 Code, § 4-103, modified)

12-104. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the building code as herein adopted by reference and modified, and such violations and/or failure to comply shall be deemed a misdemeanor. (1978 Code, § 4-104)

CHAPTER 2

PLUMBING CODE¹

SECTION

- 12-201. Plumbing code adopted.
- 12-202. Modifications.
- 12-203. Available in recorder's office.
- 12-204. Violations.

12-201. Plumbing code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 and for the purpose of regulating plumbing installations, including alterations, repairs, equipment, appliances, fixtures, fittings, and the appurtenances thereto, within or without the Town of Huntingdon, when such plumbing is or is to be connected with the municipal water or sewerage system, the International Plumbing Code,² 2009 edition, as adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the plumbing code. (1978 Code, § 4-201, modified, as amended by Ord. #528, Oct. 2010)

12-202. Modifications. Wherever the plumbing code refers to the "Chief Appointing Authority," the "Administrative Authority," or the "Governing Authority," it shall be deemed to be a reference to the mayor or town council, whichever the context requires.

Wherever "Plumbing Inspection Department," "Plumbing Official," "Officer," "Inspectors," or "Assistants" are named or referred to, it shall mean the person appointed or designated by the mayor to administer and enforce the provisions of the plumbing code.

Wherever the plumbing code refers to the Board of Adjustments and Appeals it shall be deemed a reference to the Huntingdon Unified Board of Codes Adjustments and Appeals of the Town of Huntingdon as established by HMC, title 2, chapter 2. (1978 Code, § 4-202)

¹Municipal code references

Cross connections: title 18.

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

²Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

12-203. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the plumbing code with the above modifications has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1978 Code, § 4-203, modified)

12-204. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code as herein adopted by reference and modified. (1978 Code, § 4-204)

CHAPTER 3

[DELETED]

(as deleted by Ord. #528, Oct. 2010)

CHAPTER 4

[DELETED]

(as deleted by Ord. #528, Oct. 2010)

CHAPTER 5

[DELETED]

(as deleted by Ord. #528, Oct. 2010)

CHAPTER 6

MODEL ENERGY CODE¹

SECTION

- 12-601. Model energy code adopted.
- 12-602. Modifications.
- 12-603. Available in recorder's office.
- 12-604. Violation and penalty.

12-601. Model energy code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the design of buildings for adequate thermal resistance and low air leakage and the design and selection of mechanical, electrical, water-heating and illumination systems and equipment which will enable the effective use of energy in new building construction, the Model Energy Code² 1992 edition, as prepared and maintained by The Council of American Building Officials, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the energy code.

12-602. Modifications. Whenever the energy code refers to the "responsible government agency," it shall be deemed to be a reference to the Town of Huntingdon. When the "building official" is named it shall, for the purposes of the energy code, mean such person as the town council shall have appointed or designated to administer and enforce the provisions of the energy code.

12-603. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the energy code has

¹State law reference

Tennessee Code Annotated, § 13-19-106 requires Tennessee cities either to adopt the Model Energy Code, 1992 edition, or to adopt local standards equal to or stricter than the standards in the energy code.

Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

²Copies of this code (and any amendments) may be purchased from The Council of American Building Officials, 5203 Leesburg, Pike Falls Church, Virginia 22041.

been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-604. Violation and penalty. It shall be a civil offense for any person to violate or fail to comply with any provision of the energy code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to five hundred dollars (\$500) for each offense. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 7

RESIDENTIAL CODE

SECTION

12-701. International Residential Code adopted.

12-702. Available in recorder's office.

12-703. Violations and penalty.

12-701. International Residential Code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of providing building, plumbing, mechanical and electrical provisions, the International Residential Code,¹ 2009 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the residential code, except for the portion that requires sprinkle systems in one- and two-family dwellings and wherever the same may appear, which reference or references are hereby expressly deleted. (as added by Ord. #528, Oct. 2010, and replaced by Ord. #530, April 2011)

12-702. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the residential code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (as added by Ord. #528, Oct. 2010)

12-703. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the residential code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #528, Oct. 2010)

¹Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

CHAPTER 8

EXISTING BUILDING CODE

SECTION

12-801. International Existing Building Code adopted.

12-802. Available in recorder's office.

12-803. Violations and penalty.

12-801. International Existing Building Code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating and governing the repair, alteration, change of occupancy, addition and relocation of existing buildings, including historic buildings, as herein provided and providing for the issuance of permits and collection of fees therefor; the International Existing Building Code, 2009 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the residential code. (as added by Ord. #528, Oct. 2010)

12-802. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the existing building code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (as added by Ord. #528, Oct. 2010)

12-803. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the existing building code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #528, Oct. 2010)

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. MISCELLANEOUS.
2. JUNKYARDS.
3. SLUM CLEARANCE AND ELIMINATION OF DANGEROUS STRUCTURES.
4. REMOVAL OF VEGETATION AND DEBRIS FROM CERTAIN LOTS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Health officer.
- 13-102. Smoke, soot, cinders, etc.
- 13-103. Stagnant water.
- 13-104. Weeds.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.

13-101. Health officer. The "health officer" shall be such municipal, county, or state officer as the mayor shall appoint or designate to administer and enforce health and sanitation regulations within the town. (1978 Code, § 8-101)

13-102. Smoke, soot, cinders, etc. It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (1978 Code, § 8-104)

13-103. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as to effectively prevent the breeding of mosquitoes. (1978 Code, § 8-105)

¹Municipal code references
 Animal control: title 10.
 Littering streets, etc.: § 16-107.

13-104. Weeds. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order by the recorder or director of public safety to cut such vegetation when it has reached a height of over one (1) foot. (1978 Code, § 8-106, as amended by Ord. #373, Aug. 1995)

13-105. Dead animals. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the health officer and dispose of such animal in such manner as the health officer shall direct. (1978 Code, § 8-107)

13-106. Health and sanitation nuisances. It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity. (1978 Code, § 8-108)

CHAPTER 2**JUNKYARDS****SECTION**

13-201. Junkyards.

13-201. Junkyards.¹ All junkyards within the corporate limits shall be operated and maintained subject to the following regulations:

(1) All junk stored or kept in such yards shall be so kept that it will not catch and hold water in which mosquitoes may breed and so that it will not constitute a place, or places in which rats, mice, or other vermin may be harbored, reared, or propagated.

(2) All such junkyards shall be enclosed within close fitting plank or metal solid fences touching the ground on the bottom and being not less than six (6) feet in height, such fence to be built so that it will be impossible for stray cats and/or stray dogs to have access to such junkyards.

(3) Such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety. (1978 Code, § 8-109)

¹State law reference

The provisions of this section were taken substantially from the Bristol ordinance upheld by the Tennessee Court of Appeals as being a reasonable and valid exercise of the police power in the case of Hagaman v. Slaughter, 49 Tenn. App. 338, 354 S.W.2d 818 (1961).

CHAPTER 3

SLUM CLEARANCE AND ELIMINATION OF DANGEROUS STRUCTURES

SECTION

- 13-301. Purpose.
- 13-302. Definitions.
- 13-303. Unfit or dangerous structures.
- 13-304. Conditions rendering structure unfit or dangerous.
- 13-305. Designation of public officer.
- 13-306. Powers given public officer.
- 13-307. Service of complaints or orders.
- 13-308. Hearings on complaints or petitions.
- 13-309. Finding of dangerous or unfit structures.
- 13-310. Failure to comply with order of public officer.
- 13-311. Removal or demolition by municipality.
- 13-312. Recovery of cost and placement of liens.
- 13-313. Allocation of funds for program.
- 13-314. Applicability.
- 13-315. Conflicts.

13-301. Purpose. The purpose of this regulation is to provide the necessary administrative and legal procedures as required by art. I, § 1.04(i), of the Charter of the Town of Huntingdon and Tennessee Code Annotated, § 13-21-103, for the designation of unsafe, hazardous or dangerous dwellings and structures and for the abatement of same within the municipality. (1978 Code, § 4-801)

13-302. Definitions. The following terms wherever used or referred to in this chapter shall have the following respective meanings for the purposes of this chapter, unless a different meaning clearly appears from the context:

- (1) "Municipality" shall mean the Town of Huntingdon, Tennessee.
- (2) "Governing body" shall mean the Council of the Town of Huntingdon.
- (3) "Public officer" shall mean the officer or officers who are authorized hereinbelow to exercise the powers prescribed by this chapter.
- (4) "Public authority" shall mean any housing authority or any officer who is in charge of any department or branch of the government of the municipality relating to health, fire, building regulations, or other activities concerning structures in the municipality.
- (5) "Owner" shall mean the holder of the title in fee simple and every mortgagee of record.

(6) "Parties of interest" shall mean all individuals, associations, corporations and others who have interest of record in a structure and any who are in possession thereof.

(7) "Dwelling" shall mean any building or structure, or part thereof, used and occupied for human residential habitation or abode or use, or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

(8) "Place of public accommodation" shall mean any building or structure in which goods are supplied or services performed, or in which the trade of the general public is solicited.

(9) "Structure" shall mean any dwelling, any place of public accommodation; any place wherein business, trade, commerce or manufacture is conducted; any advertising sign; fences or any other similar man-made facility or object. (1978 Code, § 4-802)

13-303. Unfit or dangerous structures. All dwellings, structures and other similar facilities within the municipality which are unsuitable or unsafe for human occupancy or use due to dilapidation; defects increasing the hazards of fire, accident or other calamities; damage from fire; lack of ventilation, light or sanitary facilities, or due to other conditions rendering such structures unsafe or unsanitary, or dangerous or detrimental to the health, safety or morals, or otherwise inimical to the welfare of the residents of the Town of Huntingdon, shall be upon proper investigation by the appropriate public official declared as an "Unfit or Dangerous Structure," and shall be and is hereby declared to be a public nuisance, which shall be upon application of the proper procedure by a public authority abated as directed. (1978 Code, § 4-803)

13-304. Conditions rendering structure unfit or dangerous. The public officer may determine that a structure is unfit for human occupation or use, if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants of such structure; the occupants of neighboring structures or other residents of the municipality. Such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation, caused either by neglect or fire or other such damage; disrepair; structural defects, or uncleanness. The public officer of public authority may also utilize the standards and requirements of other related adopted codes of the municipality, such as the building code, housing code. etc. (1978 Code, § 4-804)

13-305. Designation of public officer. The codes enforcement official/building inspector is designated as the principle public officer for the administering and enforcement of the provisions of this chapter; however, the following duly elected or appointed and serving officers or employees of the

Town of Huntingdon are also authorized to enforce the provisions of this chapter:

- (1) Fire marshal/fire chief.
- (2) Chief of police.
- (3) Town recorder.
- (4) Town attorney.
- (5) Town mayor. (1978 Code, § 4-805)

13-306. Powers given public officer. The Council of the Town of Huntingdon hereby authorizes the public officer to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the following powers in addition to others herein granted:

- (1) To investigate conditions in the municipality in order to determine which structures therein are unfit for human occupation or use.
- (2) To administer oaths, affirmations, examine witnesses and receive evidence.
- (3) To enter upon premises for the purpose of making examinations, provided that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession.
- (4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter.
- (5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate. (1978 Code, § 4-806)

13-307. Service of complaints or orders. Complaints or orders issued by a public officer pursuant to this chapter shall be served upon persons either personally or by registered mail, but if the whereabouts of such persons is unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in the town's official newspaper. A copy of such complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the Office of the Register, Carroll County, Tennessee, and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law. [Tennessee Code Annotated, § 12-21-105] (1978 Code, § 4-807)

13-308. Hearings on complaints or petitions. Whenever a petition is filed with the public officer by a public authority; or by at least five (5) residents of the municipality charging that any structure is dangerous or unfit for human occupation or use; or whenever it appears to the public officer (on his own motion) that any structure is dangerous or unfit for human occupation or

use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the serving of the complaint; that the owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint, and that the rules of evidence prevailing in courts in law or equity shall not be controlling in hearings before the public officer. (1978 Code, § 4-808)

13-309. Finding of dangerous or unfit structures. If after such notice and hearing, the public officer determines that the structure under consideration is dangerous or unfit for human occupation or use, he shall state in writing his findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order stating that:

(1) If the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure (fifty percent [50%] shall be considered a reasonable value) the owner will be required, within the time specified in the order, to repair, alter, or improve such structure to render it safe or fit for human occupation or use, or to vacate and close the structure as a place of human occupation or use; or

(2) If the repair, alteration or improvement of the structure cannot be made at a reasonable cost in relation to the value of the structure (fifty percent [50%] shall be considered reasonable), the owner will be required, within the time specified in the order, to remove or demolish such structure. (1978 Code, § 4-809)

13-310. Failure to comply with order of public officer. If the owner fails to comply with an order to repair, alter, or improve, or to vacate and close the structure, the public officer may cause such structure to be repaired, altered or improved, or to be vacated and closed. The public officer may cause to be posted on the main entrance of any structure so closed (or on the most publicly visible point of a structure such as a billboard or a fence) a placard with the following words: "This structure or building is dangerous or unfit for human occupation or use, and the utilization of this structure or building for human occupation or use is prohibited and unlawful." (1978 Code, § 4-810)

13-311. Removal or demolition by municipality. If the owner fails to comply with an order to remove or demolish the structures, the public officer may cause such structure to be removed or demolished. (1978 Code, § 4-811)

13-312. Recovery of cost and placement of liens. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall be a lien against the real property upon which such cost was incurred.

(1) If the structure is removed or demolished by the public officer, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of removal or demolition, and any balance remaining shall be deposited in the chancery court by the public officer; shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court.

(2) Nothing in this section or chapter shall be construed to impair or limit in any way the power of the municipality to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (1978 Code, § 4-812)

13-313. Allocation of funds for program The governing body of the municipality shall prepare an estimate of the annual expenses of cost to establish, maintain and administer the program authorized by this chapter, and same shall be allocated and funded as a component of the town's annual general fund budget. (1978 Code, § 4-813)

13-314. Applicability. The provisions of this chapter extend to all man-made structures within the municipality, including, but not limited to: residential dwellings or abodes; commercial, business or industrial facilities; storage buildings; barns, sheds, and outbuildings; towers; outdoor advertising signs or billboards, and fences. (1978 Code, § 4-814)

13-315. Conflicts. In any case where the provisions of this chapter may be in conflict with the provisions of other chapters of the Huntingdon Municipal Code which relate to the regulation of dangerous, unfit or nonconforming buildings or structures, the provisions of the chapter or regulation providing the highest degree of protection to the residents of the municipality shall prevail. (1978 Code, § 4-815)

CHAPTER 4

REMOVAL OF VEGETATION AND DEBRIS FROM CERTAIN LOTS

SECTION

- 13-401. Purpose.
- 13-402. Conditions regulated.
- 13-403. Designation of public official(s).
- 13-404. Notification to remedy.
- 13-405. Charges shall be a lien upon property.
- 13-406. Requirement for public hearing.
- 13-407. Judicial review.
- 13-408. Exceptions.

13-401. Purpose. The purpose of this chapter is to provide the required rules and regulations necessary for the enforcement of the provisions of chapter 564 of the Public Acts of 1988 of the Tennessee General Assembly as pertain to elimination of vegetation and debris on certain lots which may endanger the health, safety and welfare of the citizenry. (1978 Code, § 8-701)

13-402. Conditions regulated. It shall be unlawful for the owner of record of any real property within the corporate limits of the Town of Huntingdon (the "town") to create or allow to be created, or to maintain or permit to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulation of debris, trash, litter, or garbage, or any combination of the preceding elements so as to endanger the health, safety and welfare of other citizens or to encourage the infestation of rats and other harmful animals. (1978 Code, § 8-702)

13-403. Designation of public official(s). The town codes enforcement official is designated as the principal officer for the administration and enforcement of provisions of this chapter; however, the following elected or appointed officials are also authorized to enforce the provisions of same:

- (1) Town Mayor.
- (2) Town Recorder.
- (3) Town Attorney.
- (4) Director of Public Safety.
- (5) Fire Marshall/Codes Enforcement Officer. (1978 Code, § 8-703, as amended by Ord. #373, Aug. 1995)

13-404. Notification to remedy. When it has been determined by the appropriate official that the condition of any real property located within the town's corporate limits violates the conditions regulated by § 13-402, above, the owner of record shall be notified to remedy the conditions immediately. The

notice shall be given by certified United States mail, return receipt required, addressed to the last known address of the owner of record. The notice shall state that the owner of the property is entitled to a hearing. The notice shall be written in plain language and shall include but not be limited to the following elements:

- (1) A brief statement of the requirements of this regulation which shall contain the consequences of failing to remedy the noted condition;
- (2) The person, office, address and telephone number of the official giving notice;
- (3) A cost estimate for remedying the noted condition which shall be in conformity with the standards of cost in the community; and
- (4) A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing, which shall be the town recorder's office. (1978 Code, § 8-704)

13-405. Charges shall be a lien upon property. If the person fails or refuses to remedy the condition within ten (10) days after receiving the notice, the appropriate official shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards and the cost thereof assessed against the owner of the property. These costs shall be placed upon the tax rolls of the town as a lien upon the property and shall be collected in the same manner as the town's taxes are collected. Provided, however, if the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials, the ten (10) day period of the first sentence of this section shall be twenty (20) days, excluding Saturdays, Sundays and legal holidays. (1978 Code, § 8-705)

13-406. Requirement for public hearing. (1) The owner of the cited property shall be entitled to a hearing. Upon receipt of a written request from the person aggrieved by the determination made pursuant to § 13-404, above, which must be filed with the town recorder in his office in the Huntingdon Municipal Building within the appropriate notification period as provided by § 13-405, above, a hearing shall be called and held within ten (10) days of said filing.

(2) Failure to file such request within the time limits shall without exception constitute a waiver of the right to a hearing.

(3) The standing committee for public works of the town council may constitute the panel to conduct such hearings.

(4) Any order issued pursuant to § 13-404, above, shall be stayed until the completion of such hearing. (1978 Code, § 8-706)

13-407. Judicial review. Any person aggrieved by any order of an official or agency or the town issued under the provision of this chapter may

seek judicial review of the order within ten (10) days of entry, time to be computed under Tennessee rules of civil procedure. The time period established in § 13-405, above, shall be stayed during the dependency of a hearing in the appropriate court of record, provided proper official notice of such hearing is filed with the town recorder. (1978 Code, § 8-707)

13-408. Exceptions. (1) The provisions of this chapter shall not apply to any parcel of property upon which an owner-occupied residence is located.

(2) No provision of this chapter shall negate the authority of the town to control or cause to be controlled the growth of grass or other vegetation commonly recognized as "weeds" on any property pursuant to the authority contained in HMC, title 13, § 13-104.

(3) No provision of this chapter shall negate the authority of the Town to abate or cause to be abated any/all health and sanitation nuisances pursuant to the authority contained in HMC, title 13, § 13-106. (1978 Code, § 8-708)

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. MOBILE HOMES AND TRAILERS.

CHAPTER 1

MUNICIPAL PLANNING COMMISSION¹

SECTION

- 14-101. Creation and membership.
- 14-102. Organization, powers, duties, etc.

14-101. Creation and membership. Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101 there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of ten (10) members; two (2) of these shall be the mayor and another member of the town council selected by the town council; the other eight (8) members shall be appointed by the mayor. All members of the planning commission shall serve as such without compensation. Except for the initial appointments, the terms of the eight (8) members appointed by the mayor shall be for three (3) years each. The terms of the mayor and the member selected by the town council shall run concurrently their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor. (1978 Code, § 11-101, as amended by Ord. #374, Sept. 1995)

14-102. Organization, powers, duties, etc. The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with all applicable provisions of Tennessee Code Annotated, title 13. (1978 Code, § 11-102)

¹Ordinance #465, July 2003, exempts the planning commission and the board of zoning appeals from the requirements of The Training and Continuing Education Act of 2002, Tennessee Code Annotated, § 13-3-101 et seq.

CHAPTER 2

ZONING ORDINANCE

SECTION

14-201. Land use to be governed by zoning ordinance.

14-201. Land use to be governed by zoning ordinance. Land use within the Town of Huntingdon shall be governed by Ordinance Number 415, titled "Zoning Ordinance, Huntingdon, Tennessee," and any amendments thereto.¹ (As amended by Ord. #415, June 1999)

¹Ordinance No. 415, and any amendments thereto, are published as separate documents and are of record in the office of the town recorder.

CHAPTER 3

MOBILE HOMES AND TRAILERS

SECTION

- 14-301. Definitions.
- 14-302. Regulation of mobile homes.
- 14-303. Regulation of mobile home parks.
- 14-304. Regulation of travel trailers and travel trailer parks.
- 14-305. Fees for issuance of permit.
- 14-306. Application for permit required.
- 14-307. Enforcement and penalties.
- 14-308. Appeals.

14-301. Definitions. Except as specifically defined herein, all words used in this chapter have their customary dictionary definitions where not inconsistent with the context. For the purpose of this chapter certain words or terms are defined as follows:

The term "shall" is mandatory.

When not inconsistent with the context, words used in the singular number include the plural and those used in the plural number include the singular.

Words used in the present tense include the future.

(1) "Mobile home." A factory-built residential structure which is constructed on an integral and permanent chassis or under-carriage which includes axles, wheels, and a tongue or hitch. A mobile home is designed for transportation after fabrication on streets and highways on its own wheels or on a flatbed or other trailer for delivery to a mobile home dealer or arriving at the site ready for occupancy, except for minor and incidental unpacking and assembly operations, location on jacks or permanent foundation and connections to utilities. The character of a mobile home as a non-permanent dwelling shall not be changed by removal of the wheels, hitch, and/or carriage, or placement on a permanent foundation.

(a) A mobile home, double-wide, shall be defined as a mobile home unit which is ordinarily constructed during the manufacturing process as two matching halves of the same unit, which is then separated for transport to the mobile home dealer or site where the two halves are then re-joined to form a single, integral mobile home unit.

(2) "Mobile home park." Any plot of ground within the Town of Huntingdon on which three (3) or more mobile homes, occupied for dwelling or sleeping purposes, are located.

(3) "Mobile home space." A plot of ground within a mobile home park designated for the accommodation of one (1) mobile home.

(4) "Travel trailer." A travel trailer, pick-up camper, converted bus, tent-trailer, tent, or similar device used for temporary portable housing or a unit which:

(a) Can operate independent of connections to external sewer, water, and electrical systems;

(b) Contains water storage facilities and may contain a lavatory, kitchen sink, and/or bath facilities; and/or

(c) Is identified by the manufacturer as a travel trailer.

(5) "Travel trailer park." Any plot of ground within the Town of Huntingdon on which two (2) or more travel trailers, occupied for camping or periods of short stay, are located.

(6) "Health officer." The director of a city, county, or district health department having jurisdiction over the community health in a specific area, or his duly authorized representative.

(7) "Buffer strip." An evergreen buffer shall consist of a greenbelt planted strip not less than ten (10) feet in evergreen trees, spaced not more than forty (40) feet apart and not less than two (2) rows of shrubs or hedge, spaced not more than five (5) feet apart and which grow to a height of five (5) feet or more after one (1) full growing season and which shrubs will eventually grow to not less than ten (10) feet. (1978 Code, § 8-501)

14-302. Regulation of mobile homes. (1) It shall be unlawful for any mobile home to be used, stored, or placed on any lot or serviced by the utilities of the town where said mobile home is outside any designated and licensed mobile home park after the date of passage of the provisions of this chapter, excepting mobile homes located on a licensed mobile home sales lot, and except as provided in § 14-302(2) and 14-302(3).

(2) Any mobile home already placed on a lot on or before the date of passage of the provisions of this chapter will be permitted to remain at its present location. If said present mobile home shall remain vacant for a period of one (1) year, said mobile home owner shall be given, at the end of that year, a period not to exceed sixty (60) days in which to remove said mobile home and to comply with all provisions of this chapter.

(3) Mobile homes may be placed on individual lots in a Fringe Residential (F-R) District as provided for in the zoning ordinance.¹ (1978 Code, § 8-502)

14-303. Regulation of mobile home parks. (1) Permit for mobile home park. No place or site within the town shall be established or maintained by any person, group of persons, or corporation as a mobile home park unless he holds a valid permit issued by the building inspector in the name of such person

¹The zoning ordinance is of record in the office of the recorder.

or persons for the specific mobile home park. The building inspector is authorized to issue, suspend, or revoke permits in accordance with the provisions of this chapter.

Mobile home parks in existence as of the effective date of the provisions of this chapter shall be required to obtain a mobile home park permit. Pre-existing mobile home parks which do not comply with the requirements regarding mobile home parks shall be considered as a non-conforming mobile home park and permitted as such. Any sale, transfer or lease of such non-conforming mobile home park shall be permitted and any new owner or operator may continue to operate such mobile home park as a non-conforming mobile home park, provided; however, that any additions or extensions to such pre-existing non-conforming mobile home parks made on or after July 18th, 1988, shall be in conformance with the current mobile home park regulations to the maximum extent possible.

Said pre-existing mobile home parks shall comply with all state regulations applicable thereto which were in force prior to the establishment of said mobile home park.

(2) Inspections by building inspector. The building inspector is hereby authorized and directed to make inspections to determine the conditions of mobile home parks in order that he may perform his duty of safeguarding the health and safety of occupants of mobile home parks and of the general public. The building inspector shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this chapter.

(3) Length of occupancy. No mobile home space shall be rented in any mobile home park except for periods of sixty (60) days or more, and no mobile home shall be admitted to any park unless it can be demonstrated that it meets the requirements of the American Standards Association Code Provision A-119.1-1963; American Standard for Installation in Mobile Homes of Electrical, Heating and Plumbing Systems, or mobile homes manufacturers association mobile home standards for plumbing, heating, and electrical systems, or any state administered code insuring equal or better plumbing, heating, or electrical installations.

(4) Location and planning. The mobile home park shall be located on a well-drained site and shall be so located that its drainage will not endanger any water supply and shall be in conformity with a plan approved by the town planning commission and shall be located in districts as specified in the zoning ordinance.¹

(5) Minimum size of mobile home park. The tract of land for the mobile home park shall comprise an area of not less than three (3) acres. The

¹The zoning ordinance is of record in the office of the recorder.

tract of land shall consist of a single plot so dimensioned and related as to facilitate efficient design and management.

(6) Minimum number of spaces. Minimum number of spaces completed and ready for occupancy before first occupancy is nine (9).

(7) Minimum mobile home space and spacing of mobile homes. Each mobile home space shall be adequate for the type of facility occupying the same. Mobile homes shall be parked on each space so that there will be at least fifteen (15) feet of open space between mobile homes or any attachment such as a garage or porch, and at least fifteen (15) feet end to end spacing between trailers and any building or structure, twenty (20) feet between any trailer and property line and thirty-five (35) feet from the right-of-way of any public street or highway.

If the construction of additional rooms or covered areas is to be allowed beside the mobile homes, the mobile home spaces shall be made wider to accommodate such construction in order to maintain the required fifteen (15) feet of open space. In addition, each mobile home space shall contain:

- (a) A minimum lot area of three thousand (3,000) square feet;
- (b) A minimum depth with end parking of an automobile equal to the length of the mobile home plus thirty (30) feet;
- (c) A minimum depth with side or street parking equal to the length of the mobile home plus fifteen (15) feet; and
- (d) A minimum width of at least forty (40) feet and a minimum depth of at least seventy-five (75) feet.

(8) Water supply. Where a public water supply is available, it shall be used exclusively. The development of an independent water supply to serve the mobile home park shall be made only after written approval of plans and specifications has been granted by the county health officer. In those instances where an independent system is approved, the water shall be from a supply properly located, protected, and operated and shall be adequate in quantity and approved in quality. Samples of water for bacteriological examination shall be taken before the initial approval of the physical structure and thereafter at least every four (4) months and when any repair or alteration of the water supply system has been made. If a positive sample is obtained, it will be the responsibility of the mobile home park operator to provide such treatment as is deemed necessary by the health officer to maintain a safe, potable water supply. Water shall be furnished at the minimum capacity of two hundred and fifty (250) gallons per day per mobile home space. An individual water service connection shall be provided for each mobile home space.

(9) Sewage disposal.¹ An adequate sewage disposal system must be provided and must be approved in writing by the health officer. Each mobile

¹Municipal code reference
Sewer regulations: title 18.

home space shall be equipped with at least a four (4) inch sewer connection, trapped below the frost line and reaching at least four (4) inches above the surface of the ground. All sewer lines shall be laid in trenches separated at least ten (10) feet horizontally from any drinking water supply line.

Every effort shall be made to dispose of the sewage through a public sewage system. In lieu of this, a septic tank and sub-surface soil absorption system may be used provided the soil characteristics are suitable and an adequate disposal area is available. The minimum size of any septic tank to be installed under any condition shall not be less than seven hundred fifty (750) gallons working capacity. This size tank can accommodate a maximum of two (2) mobile homes. For each additional mobile home on such a single tank, a minimum additional liquid capacity of one hundred seventy-five (175) gallons shall be provided. The sewage from no more than twelve (12) mobile homes shall be disposed of in any one (1) single tank installation. The size of such tank shall be a minimum of two thousand five hundred (2,500) gallons liquid capacity.

The amount of effective soil absorption area or total bottom area of overflow trenches will depend on local soil conditions and shall be determined only on the basis of the percolation rate of the soil. The percolation rate shall be determined as outlined in appendix A of the Tennessee Department of Public Health bulletin, entitled "Recommended Construction of Large Septic Tank Disposal Systems for Schools, Factories and Institutions." This bulletin is available on request from the department. No mobile home shall be placed over a soil absorption field.

In lieu of a public sewerage or septic tank system, an officially approved package treatment plant may be used.

(10) Refuse.¹ The storage, collection, and disposal of refuse in the park shall be so managed as to create no health hazard. All refuse shall be stored in fly proof, water tight, and rodent proof containers. Satisfactory container racks or holders shall be provided. Garbage shall be collected and disposed of in an approved manner at least twice per week.

(11) Electricity.² An electrical outlet supplying at least two hundred twenty (220) volts shall be provided for each mobile home space and shall be weather proof and accessible to the parked mobile home. All electrical installations shall be in compliance with the national electrical code and Tennessee Department of Insurance and Banking Regulation No. 15, entitled "Regulations Relating to Electrical Installations in the State of Tennessee," and shall satisfy all requirements of the local electric service organization.

¹Municipal code reference
Refuse collection, etc.: title 17.

²Municipal code reference
Electricity: title 19.

(12) Streets. Minimum widths of various streets within mobile home parks shall be:

One-way, with no on-street parking	12 ft.
One-way, with parallel parking on one side only	18 ft.
One-way, with parallel parking on both sides	26 ft.
Two-way, with no on-street parking	20 ft.
Two-way, with parallel parking on one side only	28 ft.
Two-way, with parallel parking on both sides	36 ft.

Streets shall have a gravel base consisting of size 25 (Grade D) stone compacted to six (6) inches and paved surface of asphaltic concrete (hot mix) - as specified in the Tennessee Department of Highways' Standard Specifications for Road and Bridge Construction, 1968, Section 411-compacted to one (1) inch with not less than an average weight of one hundred (100) pounds per square yard.

(13) Parking spaces. Car parking spaces shall be provided in sufficient number to meet the needs of the occupants of the property and their guests without interference with normal movement of traffic. Such facilities shall be provided at the rate of at least one (1) car space for each mobile home lot plus an additional car space for each four (4) lots to provide for guest parking, for two-car tenants, and for delivery and service vehicles. Car parking spaces shall be located for convenient access to the mobile home spaces. Where practical, one (1) car space shall be located on each lot and the remainder located in adjacent parking bays. The size of the individual parking space shall have a minimum width of not less than ten (10) feet and length of not less than twenty (20) feet. The parking spaces shall be located so access can be gained only from internal streets of the mobile home park.

(14) Buffer strip. An evergreen buffer strip shall be planted along all boundaries of the mobile home park. (1978 Code, § 8-503)

14-304. Regulation of travel trailers and travel trailer parks.

(1) Occupied trailers outside trailer park prohibited. It shall be unlawful for any travel trailer to be occupied or serviced outside any properly designated travel trailer park. This provision shall not apply to the storage of travel trailers provided said trailer unit is neither temporarily or permanently occupied as a dwelling unit while within the town limits.

(2) Permit for travel trailer park. No place or site within the town shall be established or maintained by any person, group of persons, or corporation as a travel trailer park unless he holds a valid permit issued by the building inspector in the name of such person or persons for the specific travel trailer park. The building inspector is authorized to issue, suspend, or revoke permits in accordance with the provisions of this chapter.

(3) Inspections by building inspector or county health officer. The building inspector or county health officer is hereby authorized and directed to

make inspections to determine the condition of travel trailer parks, in order that he may perform his duty of safeguarding the health and safety of the occupants of travel trailer parks and of the general public. The building inspector or county health officer shall have the power to enter at reasonable times upon any private or public property for the purpose of the inspecting and investigating conditions relating to the enforcement of this chapter.

(4) Length of occupancy. Travel trailer spaces shall be rented by the day or week only, and the occupant of such space shall remain in the same travel trailer park not more than fourteen (14) days.

(5) Location. Travel trailer parks shall be located in districts as specified in the zoning ordinance.¹

(6) Minimum size of travel trailer space. Each travel trailer space shall have a minimum width of thirty (30) feet and a minimum length of fifty (50) feet.

(7) State regulations control site improvements. Site planning improvements shall conform to the standards established in regulations VI - XX of the state regulations governing the construction, operation, and maintenance of organized camps in Tennessee, as provided in Tennessee Code Annotated, §§ 68-110-101, et seq. (1978 Code, § 8-504)

14-305. Fees for issuance of permit. An annual permit fee shall be required for mobile home parks and travel trailer parks.

(1) Mobile home parks. The annual permit fee for mobile home parks shall be fifty (50) dollars.

(2) Travel trailer parks. The annual permit fee for each travel trailer park shall be twenty-five (25) dollars. (1978 Code, § 8-505)

14-306. Application for permit required. (1) Mobile home parks. Applications for a mobile home park permit shall be filed with and issued by the building inspector subject to the planning commission's approval of the mobile home park plan. Applications shall be in writing and signed by the applicant and shall be accompanied with an approved plan of the proposed mobile home park. The plan shall contain the following information and conform to the following requirements:

- (a) The plan shall be clearly and legibly drawn at a scale not smaller than one hundred (100) feet to one (1) inch;
- (b) Name and address of owner of record;
- (c) Proposed name of park;
- (d) North point and graphic scale and date;
- (e) Vicinity map showing location and acreage of mobile home park;

¹The zoning ordinance is of record in the office of the recorder.

- (f) Exact boundary lines of the tract by bearing and distance;
- (g) Names of owners of record of adjoining land;
- (h) Existing streets, utilities, easements, and water courses on and adjacent to the tract;
- (i) Proposed design including streets, proposed street names, lot lines with approximate dimensions, easements, land to be reserved or dedicated for public uses, and any land to be used for purposes other than mobile home spaces;
- (j) Provisions for water supply, sewerage, and drainage;
- (k) Such information as may be required by the town to enable it to determine if the proposed park will comply with legal requirements; and
- (l) The applications and all accompanying plans and specifications shall be filed in triplicate.

Certificates that shall be required are: (1) owner's certification; (2) planning commission's approval signed by the secretary; and (3) any other certificates deemed necessary by the planning commission.

(2) Travel trailer parks. Applications for travel trailer parks shall meet the same requirements as contained in subsection (1) of this section. (1978 Code, § 8-506)

14-307. Enforcement and penalties. (1) It shall be the duty of the county health officer and building inspector to enforce the provisions of this chapter.

(2) Any person or corporation who violates the provisions hereof, or fails to perform the reasonable requirements specified by the building inspector or county health officer after receipt of thirty-five (35) days written notice of such requirements shall be fined in accordance with the provisions of the general penalty clause for this code. (1978 Code, § 8-507)

14-308. Appeals. (1) The Huntingdon Municipal Regional Planning Commission shall serve as the board of appeals and shall be guided by procedures and powers compatible with state law.

Any party aggrieved because of an alleged error in any order, requirement, decision, or determination made by the building inspector in the enforcement of this chapter may appeal for and receive a hearing by the Huntingdon Municipal Regional Planning Commission (advised by the city attorney) for an interpretation of pertinent provisions. In exercising the power of interpretation of this chapter, the Huntingdon Municipal Regional Planning Commission with advice from the town attorney, may, in conformity with the provisions of this chapter, reverse or affirm any order, requirement, decision, or determination made by the building inspector.

(2) Appeals from board of appeals. Any person or persons or any board, taxpayer, department, or bureau of the town aggrieved by any decision

of the Huntingdon Municipal Regional Planning Commission and the town attorney may seek review by a court of record of such decision in the manner provided by the laws of the State of Tennessee. (1978 Code, § 8-508)

TITLE 15**MOTOR VEHICLES, TRAFFIC AND PARKING¹****CHAPTER**

1. MISCELLANEOUS.
2. EMERGENCY VEHICLES.
3. SPEED LIMITS.
4. TURNING MOVEMENTS.
5. STOPPING AND YIELDING.
6. PARKING.
7. ENFORCEMENT.

CHAPTER 1**MISCELLANEOUS²****SECTION**

- 15-101. Motor vehicle requirements.
- 15-102. Driving on streets closed for repairs, etc.
- 15-103. Reckless driving.
- 15-104. One-way streets.
- 15-105. Unlaned streets.
- 15-106. Laned streets.
- 15-107. Yellow lines.
- 15-108. Miscellaneous traffic-control signs, etc.
- 15-109. General requirements for traffic-control signs, etc.
- 15-110. Unauthorized traffic-control signs, etc.
- 15-111. Presumption with respect to traffic-control signs, etc.
- 15-112. School safety patrols.

¹Municipal code reference

Excavations and obstructions in streets, etc.: title 16.

²State law references

Under Tennessee Code Annotated, § 55-10-307, the following offenses are exclusively state offenses and must be tried in a state court or a court having state jurisdiction: driving while intoxicated or drugged, as prohibited by Tennessee Code Annotated, § 55-10-401; failing to stop after a traffic accident, as prohibited by Tennessee Code Annotated, § 55-10-101, et seq.; driving while license is suspended or revoked, as prohibited by Tennessee Code Annotated, § 55-7-116; and drag racing, as prohibited by Tennessee Code Annotated, § 55-10-501.

- 15-113. Driving through funerals or other processions.
- 15-114. Clinging to vehicles in motion.
- 15-115. Riding on outside of vehicles.
- 15-116. Backing vehicles.
- 15-117. Projections from the rear of vehicles.
- 15-118. Causing unnecessary noise.
- 15-119. Passing.
- 15-120. Damaging pavements.
- 15-121. Bicycle riders, etc.
- 15-122. Heavier vehicles to travel designated routes.

15-101. Motor vehicle requirements. It shall be unlawful for any person to operate any motor vehicle within the corporate limits unless such vehicle is equipped with properly operating muffler, lights, brakes, horn, and such other equipment as is prescribed and required by Tennessee Code Annotated, title 55, chapter 9. (1978 Code, § 9-101)

15-102. Driving on streets closed for repairs, etc. Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or other lawful purpose. (1978 Code, § 9-106)

15-103. Reckless driving. Irrespective of the posted speed limit, no person, including operators of emergency vehicles, shall drive any vehicle in willful or wanton disregard for the safety of persons or property. (1978 Code, § 9-107)

15-104. One-way streets. On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction. (1978 Code, § 9-108)

15-105. Unlaned streets. (1) Upon all unlaned streets of sufficient width, a vehicle shall be driven upon the right half of the street except:

(a) When lawfully overtaking and passing another vehicle proceeding in the same direction.

(b) When the right half of a roadway is closed to traffic while under construction or repair.

(c) Upon a roadway designated and signposted by the town for one-way traffic.

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (1978 Code, § 9-109)

15-106. Laned streets. On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle within the boundaries of the proper lane for his direction of travel except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

On two (2) lane and three (3) lane streets, the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On streets with four (4) or more lanes, either of the right hand lanes shall be available for use, except that traffic moving at less than the normal rate of speed shall use the extreme right hand lane. On one-way streets either lane may be lawfully used in the absence of markings to the contrary. (1978 Code, § 9-110)

15-107. Yellow lines. On streets with a yellow line placed to the right of any lane line or center line, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street. (1978 Code, § 9-111)

15-108. Miscellaneous traffic-control signs, etc.¹ It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic-control sign, signal, marking, or device placed or erected by the state or the town unless otherwise directed by a police officer.

It shall be unlawful for any pedestrian or the operator of any vehicle to willfully violate or fail to comply with the reasonable directions of any police officer. (1978 Code, § 9-112)

15-109. General requirements for traffic-control signs, etc. All traffic-control signs, signals, markings, and devices shall conform to the latest revision of the Manual on Uniform Traffic Control Devices for Streets and

¹Municipal code references

Stop signs, yield signs, flashing signals, pedestrian control signs, traffic control signals generally: §§ 15-505--15-508.

Highways,¹ published by the U. S. Department of Transportation, Federal Highway Administration, and shall, so far as practicable, be uniform as to type and location throughout the town. This section shall not be construed as being mandatory but is merely directive. (1978 Code, § 9-113)

15-110. Unauthorized traffic-control signs, etc. No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic-control sign, signal, marking, or device or any railroad sign or signal. (1978 Code, § 9-114)

15-111. Presumption with respect to traffic-control signs, etc. When a traffic-control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper authority. All presently installed traffic-control signs, signals, markings and devices are hereby expressly authorized, ratified, approved and made official. (1978 Code, § 9-115)

15-112. School safety patrols. All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the chief of police and are acting in accordance with instructions; provided, that such persons giving any order, signal, or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals. (1978 Code, § 9-116)

15-113. Driving through funerals or other processions. Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. (1978 Code, § 9-117)

15-114. Clinging to vehicles in motion. It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to, or attach himself or his vehicle to any other moving vehicle upon any street, alley, or other public way or place. (1978 Code, § 9-119)

¹This manual may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

15-115. Riding on outside of vehicles. It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place to permit any person to ride on any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks. (1978 Code, § 9-120)

15-116. Backing vehicles. The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. (1978 Code, § 9-121)

15-117. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half ($\frac{1}{2}$) hour after sunset and one-half ($\frac{1}{2}$) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred (200) feet from the rear of such vehicle. (1978 Code, § 9-122)

15-118. Causing unnecessary noise. It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle. (1978 Code, § 9-123)

15-119. Passing. Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

When the street is wide enough, the driver of a vehicle may overtake and pass upon the right of another vehicle which is making or about to make a left turn.

The driver of a vehicle may overtake and pass another vehicle proceeding in the same direction either upon the left or upon the right on a street of sufficient width for four (4) or more lanes of moving traffic when such movement can be made in safety.

No person shall drive off the pavement or upon the shoulder of the street in overtaking or passing on the right.

When any vehicle has stopped at a marked crosswalk or at an intersection to permit a pedestrian to cross the street, no operator of any other vehicle approaching from the rear shall overtake and pass such stopped vehicle.

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety. (1978 Code, § 9-125)

15-120. Damaging pavements. No person shall operate or cause to be operated upon any street of the town any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels, tires, or track is likely to damage the surface or foundation of the street. (1978 Code, § 9-118)

15-121. Bicycle riders, etc. Every person riding or operating a bicycle, motorcycle, or motor driven cycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the town applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, or motor driven cycles.

No person operating or riding a bicycle, motorcycle, or motor driven cycle shall ride other than upon or astride the permanent and regular seat attached thereto, nor shall the operator carry any other person upon such vehicle other than upon a firmly attached and regular seat thereon.

No bicycle, motorcycle, or motor driven cycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

No person operating a bicycle, motorcycle, or motor driven cycle shall carry any package, bundle, or article which prevents the rider from keeping both hands upon the handlebar.

No person under the age of sixteen (16) years shall operate any motorcycle, motorbike, or motor driven cycle while any other person is a passenger upon said motor vehicle.

All motorcycles and motor driven cycles operated on public ways within the corporate limits shall be equipped with crash bars approved by the state's commissioner of safety.

Each driver of a motorcycle or motor driven cycle and any passenger thereon shall be required to wear on his head a crash helmet of a type approved by the state's commissioner of safety.

Every motorcycle or motor driven cycle operated upon any public way within the corporate limits shall be equipped with a windshield of a type approved by the state's commissioner of safety, or, in the alternative, the operator and any passenger on any such motorcycle or motor driven cycle shall be required to wear safety goggles of a type approved by the state's commissioner of safety for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

It shall be unlawful for any person to operate or ride on any vehicle in violation of this section and it shall also be unlawful for any parent or guardian knowingly to permit any minor to operate a motorcycle or motor driven cycle in violation of this section. (1978 Code, § 9-126)

15-122. Heavier vehicles to travel designated routes. All vehicles with a rated capacity of two (2) tons or more shall travel only upon the following designated streets or highways:

(1) All designated vehicles shall, upon entering the Town of Huntingdon's traffic control area, proceed on the incoming route (US 70; US 70-A; TN 22, or TN 77) directly to the intersection of the by-pass and will exit thereupon. Such vehicles shall remain on the by-pass system until it arrives at its desired exit route, where it shall exit and proceed directly thereupon until it departs the town's traffic control area.

(2) Attached hereto as Annex "A"¹ is a town map outlining the proscribed heavy vehicle routes, which shall be known as the Official Heavy Vehicle Route Map of the Town of Huntingdon, Tennessee.

(3) Excepted; however, are vehicles and persons making local deliveries or emergency purchases or repairs to such vehicle within the Town of Huntingdon; vehicles normally garaged in the town; emergency vehicles; public utility vehicles, and vehicles detoured by proper authority. These vehicles shall utilize unauthorized streets and roads by the most feasible route which shall provide an adequate and safe passage. (1978 Code, § 9-127)

¹Annex "A" is of record in the recorder's office.

CHAPTER 2

EMERGENCY VEHICLES

SECTION

- 15-201. Authorized emergency vehicles defined.
- 15-202. Operation of authorized emergency vehicles.
- 15-203. Following emergency vehicles.
- 15-204. Running over fire hoses, etc.

15-201. Authorized emergency vehicles defined. Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the chief of police. (1978 Code, § 9-102)

15-202. Operation of authorized emergency vehicles.¹ (1) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

(2) The driver of an authorized emergency vehicle may park or stand, irrespective of the provisions of this title; proceed past a red or stop signal or stop sign, but only after slowing down to ascertain that the intersection is clear; exceed the maximum speed limit and disregard regulations governing direction of movement or turning in specified directions so long as he does not endanger life or property.

(3) The exemptions herein granted for an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by bell, siren, or exhaust whistle and when the vehicle is equipped with at least one (1) lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (1978 Code, § 9-103)

¹Municipal code reference

Operation of other vehicle upon the approach of emergency vehicles:
§ 15-501.

15-203. Following emergency vehicles. No driver of any vehicle shall follow any authorized emergency vehicle apparently travelling in response to an emergency call closer than five hundred (500) feet or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1978 Code, § 9-104)

15-204. Running over fire hoses, etc. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or policeman. (1978 Code, § 9-105)

CHAPTER 3

SPEED LIMITS

SECTION

- 15-301. In general.
- 15-302. At intersections.
- 15-303. In school zones.
- 15-304. In congested areas.

15-301. In general. It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of thirty (30) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. (1978 Code, § 9-201)

15-302. At intersections. It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic-control signals or signs which require traffic to stop or yield on the intersecting streets. (1978 Code, § 9-202)

15-303. In school zones. Generally, pursuant to Tennessee Code Annotated, § 55-8-153, special speed limits in school zones shall be enacted based on an engineering investigation; shall not be less than fifteen (15) miles per hour; and shall be in effect only when proper signs are posted with a warning flasher or flashers in operation. It shall be unlawful for any person to violate any such special speed limit enacted and in effect in accordance with this paragraph.

When the town council has not established special speed limits as provided for above, any person who shall drive at a speed exceeding fifteen (15) miles per hour when passing a school during a recess period when a warning flasher or flashers are in operation, or during a period of forty (40) minutes before the opening hour of a school or a period of forty (40) minutes after the closing hour of a school, while children are actually going to or leaving school, shall be prima facie guilty of reckless driving. (1978 Code, § 9-203)

15-304. In congested areas. It shall be unlawful for any person to operate or drive a motor vehicle through any congested area at a rate of speed in excess of any posted speed limit when such speed limit has been posted by authority of the town. (1978 Code, § 9-204)

CHAPTER 4

TURNING MOVEMENTS

SECTION

15-401. Generally.

15-402. Right turns.

15-403. Left turns on two-way roadways.

15-404. Left turns on other than two-way roadways.

15-405. U-turns.

15-401. Generally. No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.¹ (1978 Code, § 9-301)

15-402. Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway. (1978 Code, § 9-302)

15-403. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the intersection of the center line of the two roadways. (1978 Code, § 9-303)

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1978 Code, § 9-304)

15-405. U-turns. U-turns are prohibited. (1978 Code, § 9-305)

¹State law reference

Tennessee Code Annotated, § 55-8-143.

CHAPTER 5

STOPPING AND YIELDING

SECTION

- 15-501. Upon approach of authorized emergency vehicles.
- 15-502. When emerging from alleys, etc.
- 15-503. To prevent obstructing an intersection.
- 15-504. At railroad crossings.
- 15-505. At "stop" signs.
- 15-506. At "yield" signs.
- 15-507. At traffic-control signals generally.
- 15-508. At flashing traffic-control signals.
- 15-509. Stops to be signaled.

15-501. Upon approach of authorized emergency vehicles.¹ Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. (1978 Code, § 9-401)

15-502. When emerging from alleys, etc. The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles. (1978 Code, § 9-402)

15-503. To prevent obstructing an intersection. No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic-control signal indication to proceed. (1978 Code, § 9-403)

¹Municipal code reference

Special privileges of emergency vehicles: title 15, chapter 2.

15-504. At railroad crossings. Any driver of a vehicle approaching a railroad grade crossing shall stop within not less than fifteen (15) feet from the nearest rail of such railroad and shall not proceed further while any of the following conditions exist:

(1) A clearly visible electrical or mechanical signal device gives warning of the approach of a railroad train.

(2) A crossing gate is lowered or a human flagman signals the approach of a railroad train.

(3) A railroad train is approaching within approximately fifteen hundred (1500) feet of the highway crossing and is emitting an audible signal indicating its approach.

(4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing. (1978 Code, § 9-404)

15-505. At "stop" signs. The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection, and shall remain standing until he can proceed through the intersection in safety. (1978 Code, § 9-405)

15-506. At "yield" signs. The drivers of all vehicles shall yield the right of way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (1978 Code, § 9-406)

15-507. At traffic-control signals generally. Traffic-control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

(1) Green alone, or "Go":

(a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right of way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow alone, or "Caution":

(a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

(b) Pedestrians facing such signal shall not enter the roadway.

(3) Steady red alone, or "Stop":

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone. Provided, however, that a right turn on a red signal shall be permitted at all intersections within the town, provided that the prospective turning car comes to a full and complete stop before turning and that the turning car yields the right of way to pedestrians and cross traffic traveling in accordance with their traffic signal. However, said turn will not endanger other traffic lawfully using said intersection. A right turn on red shall be permitted at all intersections except those clearly marked by a "No Turns On Red" sign, which may be erected by the town at intersections which the town decides require no right turns on red in the interest of traffic safety.

(b) Pedestrians facing such signal shall not enter the roadway.

(4) Steady red with green arrow:

(a) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right of way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

(b) Pedestrians facing such signal shall not enter the roadway.

(5) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made a vehicle length short of the signal. (1978 Code, § 9-407)

15-508. At flashing traffic-control signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the town, it shall require obedience by vehicular traffic as follows:

(a) Flashing red (stop signal). When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) Flashing yellow (caution signal). When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 15-504 of this code. (1978 Code, § 9-408)

15-509. Stops to be signaled. No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,¹ except in an emergency. (1978 Code, § 9-409)

¹State law reference
Tennessee Code Annotated, § 55-8-143.

CHAPTER 6

PARKING

SECTION

- 15-601. Generally.
- 15-602. Angle parking.
- 15-603. Occupancy of more than one space.
- 15-604. Where prohibited.
- 15-605. Regulation of parking of taxicabs in the central business district.
- 15-606. Reserved parking on public streets.
- 15-607. Unlawful to deface or tamper with parking signs.
- 15-608. Presumption with respect to illegal parking.
- 15-609. Parking on privately owned parking lot.
- 15-610. Designation of two (2) hour parking limits.

15-601. Generally. No person shall leave any motor vehicle unattended on any street without first setting the brakes thereon, stopping the motor, removing the ignition key, and turning the front wheels of such vehicle toward the nearest curb or gutter of the street.

Except as hereinafter provided, every vehicle parked upon a street within the Town of Huntingdon shall be so parked that its right wheels are approximately parallel to and within eighteen (18) inches of the right edge or curb of the street. On one-way streets where the town has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street, and in such cases the left wheels shall be required to be within eighteen (18) inches of the left edge or curb of the street.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley within the fire limits between the hours of 1:00 A.M. and 5:00 A.M. or on any other public street or alley for more than seventy-two (72) consecutive hours without the prior approval of the chief of police.

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street. (1978 Code, § 9-501)

15-602. Angle parking. On those streets which have been signed or marked by the town for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four (24) feet. (1978 Code, § 9-502)

15-603. Occupancy of more than one space. No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies

more than one such space or protrudes beyond the official markings on the street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (1978 Code, § 9-503)

15-604. Where prohibited. No person shall park a vehicle in violation of any sign placed or erected by the state or town, nor:

- (1) On a sidewalk.
- (2) In front of a public or private driveway.
- (3) Within an intersection or within fifteen (15) feet thereof.
- (4) Within fifteen (15) feet of a fire hydrant.
- (5) Within a pedestrian crosswalk.
- (6) Within fifty (50) feet of a railroad crossing.
- (7) Within twenty (20) feet of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five (75) feet of the entrance.
- (8) Alongside or opposite any street excavation or obstruction when other traffic would be obstructed.
- (9) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
- (10) Upon any bridge.
- (11) Alongside any curb painted yellow or red by the town. (1978 Code, § 9-504)

15-605. Regulation of parking of taxicabs in the central business district. The parking of taxicabs within the central business district shall be governed by the provisions of § 9-412. The chief, Huntingdon Police Department, shall have the responsibility of designation and signing of such parking spaces, consistent with the public safety and welfare, and it shall be unlawful for said taxicabs to park in other than those designated spaces. Further, it shall be unlawful for other vehicles than designated taxicabs to park in designated taxicab spaces. (1978 Code, § 9-505)

15-606. Reserved parking on public streets. It shall be unlawful to designate any reserved parking spaces for individuals in the central business district, regardless of whether or not a fee has been charged, except as follows:

- (1) One (1) space may be reserved for the circuit court judge when the Carroll County Circuit Court is in session. The clerk of the circuit court is authorized to place a portable reserved parking sign, which will be provided by the town, at said space when appropriate.
- (2) Those spaces designated by the appropriate officials of the town as reserved for handicapped persons. These spaces may be for either 2 hour visitor parking, or by name for unlimited time for those handicapped persons whose places of employment are located within the central business district. Unless otherwise provided for herein, Tennessee Code Annotated, title 55, chapter 21,

entitled "Handicapped Drivers and Passengers" shall apply to the enforcement of parking privileges for same within the corporate limits.

(3) Three (3) spaces on the court square immediately in front of the U.S. Post Office, which shall be designated as reserved for postal patrons, with a more restrictive parking time limit as established by the Huntingdon Postmaster and the chief, Huntingdon Police Department.

(4) Those spaces which are designed as FIRE ZONES by the chief, Huntingdon Fire Department, shall be so marked and any parking in any such space at any time shall be unlawful. Any vehicle so unlawfully parked will be removed immediately by the town or its' designated agents and the owner charged for full cost thereof plus any fine which may be levied against the owner or driver.

(5) Those spaces which have been designated as LOADING AND UNLOADING ZONES by the chief, Huntingdon Police Department, shall be so marked by the town, and it shall be unlawful for any person to park a vehicle in such spaces except for the purpose of period of time necessary for the expeditious loading or unloading of passengers or merchandise. (1978 Code, § 9-506, as amended by Ord. #362, Feb. 1995)

15-607. Unlawful to deface or tamper with parking signs. It shall be unlawful for any unauthorized person to deface, tamper with, willfully break, destroy, or impair the usefulness of any parking sign or post. (1978 Code, § 9-508)

15-608. Presumption with respect to illegal parking. When any unoccupied vehicle is found parked in violation of any provision of this chapter, there shall be a prima facie presumption that the registered owner of the vehicle is responsible for such illegal parking. (1978 Code, § 9-509)

15-609. Parking on privately owned parking lot. It shall be unlawful for any person to park a motor vehicle upon any privately owned parking lot between 6:00 P.M. and 6:00 A.M. without the prior consent of the owner of such parking lot. (1978 Code, § 9-510)

15-610. Designation of two (2) hour parking limits. (1) All vehicle parking in lined, marked or designated parking spaces, either parallel or angle, on the public streets within the central business district of the Town of Huntingdon, as indicated below, shall be limited to a maximum of two (2) hours between the hours of 7:00 A.M. to 5:00 P.M., Mondays through Fridays (holidays, Saturdays and Sundays are expected.)

(a) All spaces around the court square.

(b) East Main Street between the court square and 2nd Avenue.

(c) West Main Street between the court square and Owens Avenue.

(d) Paris Street between the court square and Boundary Street.

(e) West Paris Street between the court square and Boundary Street.

(f) Church Street between the court square and the first alley.

(2) It shall be unlawful for the owner or operator of any vehicle to park or allow his vehicle to be parked in such parking spaces for more than the two (2) hour limit.

(3) Spaces as stated in §§ 15-605 and 15-606, hereinabove, are exempt from the provisions of this section.

(4) The penalties for violation of this section as set forth in § 15-705, hereinbelow. (Ord. #368, June 1995)

CHAPTER 7

ENFORCEMENT

SECTION

15-701. Issuance of traffic citations.

15-702. Failure to obey citation.

15-703. Illegal parking.

15-704. Impoundment of vehicles.

15-705. Violation and penalty.

15-701. Issuance of traffic citations.¹ When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the town court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be unlawful for any alleged violator to give false or misleading information as to his name or address. (1978 Code, § 9-601)

15-702. Failure to obey citation. It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (1978 Code, § 9-602)

15-703. Illegal parking. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within ten (10) days to the Huntingdon Police Department at the town hall. (1978 Code, § 9-603, modified)

15-704. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested, or any vehicle which is illegally parked, abandoned, or otherwise

¹State law reference

Tennessee Code Annotated, § 7-63-101, et seq.

parked so as to constitute an obstruction or hazard to normal traffic. Any vehicle left parked on any street or alley for more than seventy-two (72) consecutive hours without permission from the chief of police shall be presumed to have been abandoned if the owner cannot be located after a reasonable investigation. Such an impounded vehicle shall be stored until the owner claims it, gives satisfactory evidence of ownership, and pays all applicable fines and costs. The fee for impounding a vehicle shall be five dollars (\$5.00), and all cost of removal and storage of said vehicle shall be charged to the owner. (1978 Code, § 9-604, as amended by Ord. #368, June 1995)

15-705. Violation and penalty. Any violation of this title shall be a civil offense punishable as follows:

(1) Traffic citations. Traffic citations shall be punishable by a civil penalty up to fifty dollars (\$50.00) for each separate offense.

(2) Parking citations. (a) Parking meter. If the offense is a parking time limit violation, the offender may, within forty-eight (48) hours, have the charge against him disposed of by paying to the Huntingdon Police Department clerk a fine of five dollars (\$5.00) provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after forty-eight (48) hours but before a warrant for his arrest is issued, his fine shall be ten dollars (\$10.00).

(b) Other parking violations. For other parking violations, the offender may similarly waive his right to a judicial hearing and have the charges disposed of out of court but the fines shall be five dollars (\$5.00) within ten (10) days and eight dollars (\$8.00) thereafter. (1978 Code, § 9-603, as amended by Ord. #368, June 1995, modified)

TITLE 16

STREETS AND SIDEWALKS, ETC¹

CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Projecting signs and awnings, etc., restricted.
- 16-105. Banners and signs across streets and alleys restricted.
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Littering streets, alleys, or sidewalks prohibited.
- 16-108. Obstruction of drainage ditches.
- 16-109. Abutting occupants to keep sidewalks clean, etc.
- 16-110. Parades, etc., regulated.
- 16-111. Operation of trains at crossings regulated.
- 16-112. Animals and vehicles on sidewalks.
- 16-113. Fires in streets, etc.

16-101. Obstructing streets, alleys, or sidewalks prohibited. No person shall use or occupy any portion of any public street, alley, sidewalk, or right of way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials. (1978 Code, § 12-101)

16-102. Trees projecting over streets, etc., regulated. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project out over any street, alley, or sidewalk, at a height of less than fourteen (14) feet. (1978 Code, § 12-102)

16-103. Trees, etc., obstructing view at intersections prohibited. It shall be unlawful for any property owner or occupant to have or maintain on his property any tree, hedge, or billboard, or other obstruction which prevents

¹Municipal code reference

Related motor vehicle and traffic regulations: title 15.

persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1978 Code, § 12-103)

16-104. Projecting signs and awnings, etc., restricted. Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code.¹ (1978 Code, § 12-104)

16-105. Banners and signs across streets and alleys restricted. It shall be unlawful for any person to place or have placed any banner or sign across any public street or alley except when expressly authorized by the town council. (1978 Code, § 12-105)

16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited. It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by law. (1978 Code, § 12-106)

16-107. Littering streets, alleys, or sidewalks prohibited. It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, mud, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes. (1978 Code, § 12-107)

16-108. Obstruction of drainage ditches. It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right of way. (1978 Code, § 12-108)

16-109. Abutting occupants to keep sidewalks clean, etc. The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. (1978 Code, § 12-109)

16-110. Parades, etc., regulated. It shall be unlawful for any club, organization, or similar group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the recorder. No permit shall be issued by the recorder unless such activity will not unreasonably interfere with traffic and unless such

¹Municipal code reference
Building code: title 12, chapter 1.

representative shall agree to see to the immediate cleaning up of all litter which shall be left on the streets as a result of the activity. Furthermore, it shall be unlawful for any person obtaining such a permit to fail to carry out his agreement to clean up the resulting litter immediately. (1978 Code, § 12-110)

16-111. Operation of trains at crossings regulated. No person shall operate any railroad train or other railroad equipment across any street or alley without giving a warning of its approach as required by state law. (1978 Code, § 12-111, modified)

16-112. Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as to unreasonably interfere with or inconvenience pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section. (1978 Code, § 12-112)

16-113. Fires in streets, etc. It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (1978 Code, § 12-113)

CHAPTER 2

EXCAVATIONS AND CUTS¹

SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Deposit or bond.
- 16-205. Manner of excavating--barricades and lights--temporary sidewalks.
- 16-206. Restoration of streets, etc.
- 16-207. Insurance.
- 16-208. Time limits.
- 16-209. Supervision.
- 16-210. Driveway curb cuts.

16-201. Permit required. It shall be unlawful for any person, firm, corporation, association, or others to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the recorder is open for business, and said permit shall be retroactive to the date when the work was begun. (1978 Code, § 12-201)

16-202. Applications. Applications for such permits shall be made to the recorder, or such person as he may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others doing the actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating

¹State law reference

This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of City of Paris, Tennessee v. Paris-Henry County Public Utility District, 207 Tenn. 388, 340 S.W.2d 885 (1960).

to the work to be done. Such application shall be rejected or approved by the recorder within twenty-four (24) hours of its filing. (1978 Code, § 12-202)

16-203. Fee. The fee for such permits shall be two dollars (\$2.00) for excavations which do not exceed twenty-five (25) square feet in area or tunnels not exceeding twenty-five (25) feet in length; and twenty-five cents (\$.25) for each additional square foot in the case of excavations, or lineal foot in the case of tunnels; but not to exceed one hundred dollars (\$100.00) for any permit. (1978 Code, § 12-203)

16-204. Deposit or bond. No such permit shall be issued unless and until the applicant therefor has deposited with the recorder a cash deposit. The deposit shall be in the sum of twenty-five dollars (\$25.00) if no pavement is involved or seventy-five dollars (\$75.00) if the excavation is in a paved area and shall insure the proper restoration of the ground and laying of the pavement, if any. Where the amount of the deposit is clearly inadequate to cover the cost of restoration, the recorder may increase the amount of the deposit to an amount considered by him to be adequate to cover the said cost. From this deposit shall be deducted the expense to the town of relaying the surface of the ground or pavement, and of making the refill if this is done by the town or at its expense. The balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

In lieu of a deposit the applicant may deposit with the recorder a surety bond in such form and amount as the recorder shall deem adequate to cover the costs to the town if the applicant fails to make proper restoration. (1978 Code, § 12-204)

16-205. Manner of excavating--barricades and lights--temporary sidewalks. Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (1978 Code, § 12-205)

16-206. Restoration of streets, etc. Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in the Town of Huntingdon shall restore said street, alley, or public place to its original condition except for the surfacing, which shall be done by the town, but shall be paid for promptly upon completion by such person, firm, corporation, association, or others for which the excavation or tunnel was made. In case of unreasonable delay in restoring the street, alley, or public place, the recorder shall give notice to the person, firm, corporation,

association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the town will do the work and charge the expense of doing the same to such person, firm, corporation, association, or others. If within the specified time the conditions of the above notice have not been complied with, the work shall be done by the town, an accurate account of the expense involved shall be kept, and the total cost shall be charged to the person, firm, corporation, association, or others who made the excavation or tunnel. (1978 Code, § 12-206)

16-207. Insurance. In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than \$100,000 for each person and \$300,000 for each accident, and for property damages not less than \$25,000 for any one (1) accident, and a \$75,000 aggregate. (1978 Code, § 12-207)

16-208. Time limits. Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the town if the town restores such surface pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the recorder. (1978 Code, § 12-208)

16-209. Supervision. The recorder shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the town and see to the enforcement of the provisions of this chapter. Notice shall be given to him at least ten (10) hours before the work of refilling any such excavation or tunnel commences. (1978 Code, § 12-209)

16-210. Driveway curb cuts. No one shall cut, build, or maintain a driveway across a curb or sidewalk without first obtaining a permit from the recorder. Such a permit will not be issued when the contemplated driveway is to be so located or constructed as to create an unreasonable hazard to pedestrian and/or vehicular traffic. No driveway shall exceed thirty-five (35) feet in width at its outer or street edge, and when two (2) or more adjoining driveways are

provided for the same property, a safety island of not less than ten (10) feet in width at its outer or street edge shall be provided. Driveway aprons shall not extend out into the street. (1978 Code, § 12-210)

TITLE 17

REFUSE AND TRASH DISPOSAL¹

CHAPTER

1. SOLID WASTE COLLECTION AND DISPOSAL

CHAPTER 1

SOLID WASTE COLLECTION AND DISPOSAL²

SECTION

- 17-101. Definitions.
- 17-102. Authorizations.
- 17-103. Preparation of solid waste for collection.
- 17-104. Location of containers.
- 17-105. Disturbing of containers.
- 17-106. Industrial waste.
- 17-107. Dead animals.
- 17-108. Collection schedule.
- 17-109. Holidays.
- 17-110. Collection and disposal fee schedule.
- 17-111. Collection and disposal fees mandatory.
- 17-112. Charges for solid waste services included on water bill.
- 17-113. Town only may collect solid waste - exceptions.
- 17-114. Solid waste to be stored in designated containers only.
- 17-115. Official sanitary landfill.
- 17-116. Burning of waste prohibited.
- 17-117. Supervision of collection and disposal.
- 17-118. Penalties.

17-101. Definitions. (1) "Solid waste" shall be interpreted to mean all non-liquid or non-semi-liquid materials which no longer serves a useful purpose and is to be discarded, to include but not restricted to garbage, but which specifically excludes human waste, sewage, sludge or other by-products from wastewater treatment facilities.

¹Municipal code reference
Property maintenance regulations: title 13.

²Charter reference
Disposal of garbage, etc.: § 1.04(k).

(2) "Garbage" shall be interpreted to mean all putrescible wastes, except sewage and body wastes, including discarded particles of food and meat, vegetable and animal offal, kitchen wastes in general, and tin cans, bottles, paper and other containers, paper, or any other materials that contain or have attached thereto any residue of milk, soft drinks, food, or other putrescible wastes, but excluding industrial wastes and by-products.

(3) "Dead animals" shall be interpreted to mean the carcasses of fowls and animals no larger than a dog. Livestock and horses shall not be included within the meaning of this term.

(4) "Industrial wastes" shall be interpreted to mean the waste and by-products of manufacturing and processing establishments.

(5) "Construction debris" shall be interpreted to mean discarded materials incident to and resulting from construction or repair of buildings, and the clearing of new construction, such as, but not limited to, rock, brick, metal, wood, glass, trees, brush, and vegetation, when such materials are in greater quantity than can be placed in one container.

(6) "Refuse" shall be interpreted to mean all other wastes, such as tin cans, metal, stone, brick, wood, glass, bottles, paper, cordage, ashes, household rubbish, tree limbs, brush, leaves, lawn trimmings, weeds, flowers, other vegetation, and any other non-classified trash or discarded materials.

(7) "Garbage container" for residential or small business use shall be interpreted to mean a water-tight can of solid and durable material of not more than 32 gallon capacity, equipped with lifting handles, and having a tight-fitting lid with a handle.

(8) "Commercial container," commonly referred to as "dumpsters," shall be interpreted to mean any large capacity metal container supplied by the town or its agents for the collection of waste from business, commercial or industrial customers.

(9) "Plastic garbage bag" shall be interpreted to mean all garbage bags manufactured of plastic, 1.5 mil thickness, or thicker, and having a capacity of not more than fifty (50) gallons, and having a total filled weight of not more than seventy five (75) pounds.

(10) "Person" shall be interpreted to mean any natural person, firm, company, agency, governmental entity, partnership, or corporation.

(11) "Town" shall be interpreted to mean the Town of Huntingdon, Tennessee, or its duly authorized agents.

(12) "Department" shall be interpreted to mean the Department of Public Works of the Town of Huntingdon, or its successor agency or activity.

(13) "Contractor" shall be interpreted to mean any private firm with which the town has entered into a formal contract for the collection of solid waste for the town. (1978 Code, § 8-201).

17-102. Authorizations. (1) Authority. The authority for the town to provide for the collection and disposal of garbage, rubbish and refuse (i.e. solid

waste); to provide for the imposition and collection of charges to cover the cost of such services, and to provide for means of collection of such charges, to include penalty and interest for delinquency, is contained in § 1.04(k), corporate powers, of the charter of the town.

(2) Contracted services. On February 25th, 1987, the town contracted with Refuse Systems, Inc., (RSI), of Corinth, Mississippi, to provide all residential, commercial and industrial solid waste collection in and for the Town of Huntingdon for disposal in the Town's sanitary landfill. On March 23rd, 1990, said contract was renewed for a term to expire March 31st, 1993. RSI, therefore, shall be the contractor who acts as the town's agent for said collections. Technically, all solid waste customers, either residential, commercial or industrial, are customers of RSI and the collection fees are established thereby; however, the Department of Finance and Administration of the town shall handle the billing process. (1978 Code, § 8-202)

17-103. Preparation of solid waste for collection. Solid waste to be collected by the town or the contractor shall be prepared as follows:

(1) Residential waste. Residential garbage or solid waste must be placed in plastic bags, meeting the minimum standards prescribed in § 17-102(9), above, with the tops tightly secured. The filled plastic garbage bags must be stored in garbage containers meeting the minimum standards prescribed in § 17-102(7), above. Containers not meeting such standards may be condemned by the department, and when so condemned shall be promptly replaced with containers which do meet such standards. Condemned containers not replaced within 15 days after notice of condemnation shall be confiscated. It shall be the duty of the head of every family occupying or in possession of any house, apartment, tenement or other dwelling unit, or the owners or agents thereof, to provide satisfactory containers as defined herein for each such dwelling unit, and to place or cause to be placed such containers or plastic bags at the designated locations at the designated times for collection by the town or its agent.

(2) Commercial waste. It shall likewise be the responsibility of the person(s) in charge of each business or commercial establishment to place all solid waste in the commercial waste containers provided by the town or the contractor. In those cases where state health regulations require lids on said containers, it shall also be the responsibility of these persons to insure that the lids are kept closed when not in use.

(3) Industrial waste. It shall likewise be the responsibility of the person(s) in charge of each industrial or manufacturing firm to use the industrial waste containers provided by the town or the contractor under individual contracts. (1978 Code, § 8-203)

17-104. Location of container. (1) Residential. Each resident is to place the plastic garbage bag, or the garbage can containing the tied plastic

garbage bag, at curb side in front of the resident prior to 8:00 A.M., prevailing time, on the designated collection days.

(2) **Commercial.** Each business shall be provided with an individual bulk container if the volume dictates; however, in the case of small volume businesses, one container may serve two or more firms so long as the container is within 100 feet of the business. Under the prevailing contract, these containers are the property of the contractor. A small, isolated business with a minimum of waste may use a garbage can as described in § 17-102(7), above. The containers are to be so located as to be accessible to the servicing vehicle, yet not pose a hazard to traffic.

(3) **Industrial.** Each industry or manufacturing firm will contract with the town or the contractor for large volume industrial containers suitable for each application, which are to be located as necessary for each firm as long as the container is accessible to the servicing vehicle. Under the prevailing contract, these containers are the property of the contractor. (1978 Code, § 8-204)

17-105. Disturbing containers. No unauthorized person shall uncover, rifle, pilfer, dig into, turn over, or in any other manner disturb, or use any refuse container belonging to another. The placing of waste in any residential, commercial or industrial container by a non-resident of the town is specifically prohibited. (1978 Code, § 8-205)

17-106. Industrial waste. Non-hazardous or non-toxic industrial waste which has been reviewed and approved by the town will be collected by the town or the contractor pursuant to individual contracts with each producer of such waste, utilizing special containers provided for such by the contractor and serviced at such frequency as agreed to by both parties. (1978 Code, § 8-206)

17-107. Dead animals. The department will, on call, pick up small dead animals, which are not be placed in garbage or solid waste container, nor introduced into the town's sanitary landfill. The person owning or in possession of other dead animals, such as livestock and horses, shall be responsible for their prompt disposal through private "tankage" companies. (1978 Code, § 8-207)

17-108. Collection schedule. The town or the contractor will collect garbage and refuse from family dwelling units twice weekly, in accordance with published schedules. Commercial solid waste will be collected as required by the volume in the containers, but no less than twice each week. Businesses which handle "prepared for consumption" food products; hospitals and nursing homes shall be collected daily, Saturdays, Sundays and approved holidays excepted. (1978 Code, § 8-208)

17-109. Holidays. (1) The following are designated holidays on which there will be no solid waste collection or disposal: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

(2) If the holiday falls on a Sunday, it will be observed on the following Monday. If the holiday falls on a Saturday, it will be observed on the preceding Friday. Customers normally scheduled for collection on one of these holidays will receive only one pick up that week, that being the next regular scheduled day which is not a holiday. (1978 Code, § 8-209)

17-110. Collection and disposal fee schedule. The collection and disposal fees for solid waste collection and disposal were negotiated between the town and the contractor; approved by the town council and incorporated in the agreement with the contractor, and as hereby amended effective July 1st, 1990, as follows:

(1) Customers located within the corporate limits.

(a) Residential fees. Each family unit shall be assessed a collection fee of \$3.60 per month and a disposal fee of \$1.40 per month for a total fee of \$5.00 per month. Each family unit in a multiple dwelling, apartment building, etc., shall be considered as a separate family unit.

(b) Commercial fees. (i) All commercial and business customers shall be assessed a collection and disposal fee based on the estimated volume of waste generated thereby, as measured by a non-compacted cubic yard. This fee shall be \$1.40 collection fee and \$0.80 disposal fee for a total fee of \$2.25 per non-compacted cubic yard. There shall be a minimum fee of \$15.00 per month for each business, of which \$3.00 shall be the monthly disposal fee.

(ii) The volume generated by each business shall be surveyed at least annually for any required adjustments of the fees as determined by the prevailing volume. Individual adjustment may be made during the year where sufficient change in volume, either increase or decrease, has occurred.

(c) Industrial fees. The collection and disposal fees for industrial customers shall be negotiated the individual firm and the town and/or the contractor; however, these fees shall not be less than those established for commercial firms per § 17-110(1)(b), above. The disposal or tippage fee shall be 37.75% of the total fee charges each industry. Industrial customers will be billed on a monthly basis directly by the contractor, who shall remit to the town the appropriate tippage fee within 15 days of the collection of same.

(d) Special collections. The department will collect and dispose of bulk solid waste upon request where the individual or business cannot locate a private source to collect same. The fee to be charged is based on the size of the collection vehicle and the time involved on a per-hour cost basis, with a minimum charge of \$12.50 per trip.

(2) Customers located outside the corporate limits. It shall be the policy of the town not to accept solid waste from individuals or firms who are not residents of the Town of Huntingdon; however, other governmental entities, or commercial or industrial firms which are not located within the corporate limits of the town may be authorized to dispose of acceptable solid waste in the town's sanitary landfill by individual contract approved by the town council. The tippage fee for such disposal shall be \$3.00 per non-compacted cubic yard, payable to the town and billed on a monthly basis.

(3) Customers who deliver solid waste direct to landfill. (a) Residents of the town who deliver small amounts of solid waste from private dwellings directly to the sanitary landfill (defined as less than a 1/2-ton pickup load) will not be assessed a disposal charge.

(b) Persons or businesses who deliver larger volumes of solid waste directly to the sanitary landfill (defined as a 1/2-ton pickup load or larger) shall pay to the town a tippage fee of \$2.25 per non-compacted cubic yard, as based on the best estimate of the volume of waste by the landfill operator.

(4) Appeals. Any customer served by the solid waste collection and disposal system of the town who believes that he or she is being unfairly assessed for such services, and who has failed to reach agreement with the department or the contractor may appeal to the town council. (1978 Code, § 8-210)

17-111. Collection and disposal fees mandatory. (1) The fees fixed in § 17-110 of this chapter for the collection, removal and/or disposal of solid waste are hereby levied against all owners, occupants, tenants, or lessees using or occupying any family dwelling unit, building, house or structure, and against all business and commercial or industrial establishments entitled to receive such services.

(2) Since the proper and prompt removal of all solid waste, refuse and garbage is essential to the public health and safety, it is deemed necessary that such a fee be levied against every person or firm eligible for said services, and thus provide for a more and equitable distribution of the cost of this service to the citizens enjoying the benefits thereof.

(3) Since the operation of the solid waste collection and disposal system of the town is a revenue producing activity, it is the desire and intent of the town council that it shall be operated in a business-like manner as normal to an enterprise fund activity, and that the collection and/or disposal fees be maintained at a sufficient level to defray the cost of current operation and maintenance; a funded reserve for depreciation and necessary capital improvements of said system.

(4) It shall be unlawful for any person to utilize any container belonging or assigned to another person as a means of avoiding payment of the fees levied by this chapter. (1978 Code, § 8-211)

17-112. Charges for solid waste services included on water bill.

For the purpose of convenience and cost reduction in the billing procedure, the monthly service fees levied by this chapter shall appear on the monthly utility bill for water and sewer services, and shall be payable at the Department of Finance and Administration in the Huntingdon Municipal Building. (1978 Code, § 8-212)

17-113. Town only may collect solid waste - exceptions. No person, other than employees of the town, its agents, or the contractor may collect or haul any solid water or garbage, refuse or other waste material within the town, with the following exceptions:

(1) A person may haul small amounts of garbage and refuse originating within his or her personal family dwelling unit to the official sanitary landfill.

(2) A person or firm operating a business, commercial or industrial establishment may haul solid waste originating within said establishment to the sanitary land, providing:

(a) That the means of conveyance is approved by the department as being sanitary and of a type that will prevent the spilling or leakage of its contents and the emanation of disagreeable odors.

(b) That the conveyance is closed or covered to prevent the waste from being blown from the conveyance and

(c) That the required fee is paid upon deliver of said waste to the sanitary landfill, or, in the case of a continuing delivery, arrangements are made with the town to pay these fees on a monthly basis. (1978 Code, § 8-213)

17-114. Solid waste to be stored in designated containers only.

The following acts by any person are hereby declared to be unlawful as trespasses and public nuisances, and subject to penalties imposed by this code:

(1) Placing, depositing, dumping, or throwing, or permitting or causing to be placed, deposited, thrown, or to remain, any garbage, refuse, dead animals, litter, industrial or building waste, or any other discarded materials:

(a) On public or private property outside any house, apartment, or building in the Town, unless the same has been deposited in accordance with the provisions of the chapter, or

(b) On lots or land, vacant or occupied, or

(c) On or in any gutter, streets, sidewalk, parkway, driveway, curb, alley, or any other public property.

(2) Permitting any garbage, refuse, litter, or other solid waste originating in a place of business to remain on the property of such business, or on streets or other private property in the vicinity o such business. Persons operating such businesses shall be responsible for assuring that their waste is collected and disposed of as required by this chapter, and that any such garbage,

refuse or other solid waste that is scattered on his or her property, regardless of the means by which such scattering occurs; however, the owners or operators of a business who permit such waste or litter be scattered onto adjacent property shall be held responsible for littering, and subject to fines and cost if convicted of same.

(3) Causing or permitting to be on or to remain in or upon any premises, public or private, any garbage, or animal, vegetable or mineral matter, or any composition of residue thereof, that shall be in an unsanitary condition or otherwise injurious to public health, or that shall emanate offensive or obnoxious odors.

(4) Any person who throws waste materials of any type onto the streets, roads or other public or private places or ways by discarding material from vehicles or otherwise shall be guilty of "littering" and subject to penalties imposed by this chapter. (1978 Code, § 8-214)

17-115. Official sanitary landfill. The official sanitary landfill of the Town is hereby defined as any land the town council may select for such use and which has received approval for such use by the Tennessee Department of Health.

(1) It shall be unlawful to dispose of garbage, refuse or other such solid waste at any place within the Town other than in the official sanitary landfill, except that construction debris may be used for fill material.

(2) It shall be unlawful for any person to introduce into the official sanitary landfill any material, either solid, semi-solid or liquid, or in any other form, which is classified by the Tennessee Department of Health as "Hazardous" or "Toxic," either by direct introduction into the landfill, or by placement in a collection container which is subsequently delivered into the landfill.

(3) It shall be unlawful for any person to introduce into the official sanitary landfill any material, either solid, semi-solid or liquid, which is classified as a "Special Waste" (i.e., not hazardous or toxic, but requiring special handling), without the written approval of the Tennessee Department of Health, and the view and approval of the town council.

(4) All garbage, refuse or other such solid waste on the town's sanitary landfill shall become and is the property of the town, and no person shall separate, collect, carry off, or salvage any such materials unless expressly authorized to do so by the department, and then only under the direction and supervision of said department.

(5) The official sanitary landfill shall be operated under the supervision of the mayor and the superintendent of public works, and pursuant to the "operations manual" as prepared by the town's consulting engineers and approved by the Tennessee Department of Health.

(6) The official sanitary landfill shall normally be open to the public during the hours of 8:00 A.M. through 4:00 P.M., Monday through Fridays, and from 8:00 A.M. to 12:00 noon on Saturdays.

(7) A suitable collection container shall be placed outside the entrance to the official sanitary landfill for the convenience of the public during those hours that the official sanitary landfill is closed. (1978 Code, § 8-215)

17-116. Burning of waste prohibited. The burning of garbage within the town at any time is hereby prohibited. The burning of refuse or other waste materials within the town between sunset and sunrise is hereby prohibited except in an incinerator approved by the town. The burning of refuse of their waste materials within the fire limits of the town at any time is hereby prohibited. The burning of combustible refuse within the town and outside the fire limits of the town shall be permitted during daylight hours provided that any such open fire shall be under constant supervision by the person who ignited it; provided further than any such fire must be at least twenty-five (25) feet from any building, combustible fence, or property line, and provided further than any such fire shall be so maintained that it shall not constitute a nuisance to, or injure or damage the property of any other person. (1978 Code, § 8-216)

17-117. Supervision of collection and disposal. This chapter shall be administered by the department of public works, heretofore known variously as the health department, garbage department and sanitation department, through its Sanitation Division, under the direction of the mayor and pursuant to such regulations which have been, or shall hereafter be ordained by the town council. (1978 Code, § 8-217)

17-118. Penalties. (1) The violation of any provision of this chapter is hereby declared to be and shall constitute a misdemeanor and a public nuisance, and shall be summarily abated by the person responsible therefor on notice from the department of public works or other official of the town, and if not so abated may be abated by the department with the cost thereof charged against the responsible person. Such abatement action shall not be a bar to the imposition of fines and cost upon conviction of a violation of the provision so this chapter.

(2) The conviction of a violation of the provisions of the chapter shall carry a fine of not more than fifty dollars (\$50.00) plus court cost, and each date that said violation continues may be a separate, triable offense. (1978 Code, § 8-218)

TITLE 18

WATER AND SEWERS¹

CHAPTER

1. WATER.
2. WASTEWATER COLLECTION AND TREATMENT SYSTEMS.
3. EXTENSION OF SEWER SERVICES OUTSIDE CORPORATE LIMITS.
4. CROSS CONNECTION CONTROL.

CHAPTER 1

WATER

SECTION

- 18-101. Application and scope.
- 18-102. Definitions.
- 18-103. Obtaining service.
- 18-104. Application and contract for service.
- 18-105. Service charges for temporary service.
- 18-106. Charges and fees -- general.
- 18-107. Main extensions to developed areas.
- 18-108. Main extensions to other areas.
- 18-109. Variances from and effect of preceding rules as to extensions.
- 18-110. Main extensions outside town corporation limits.
- 18-111. Meters.
- 18-112. Meter tests.
- 18-113. Schedule of rates.
- 18-114. Multiple dwelling units or premises served by a single meter.
- 18-115. Billing.
- 18-116. Discontinuance or refusal of service.
- 18-117. Reconnection charge.
- 18-118. Termination of service by customer.
- 18-119. Access to customers' premises.
- 18-120. Inspections.
- 18-121. Customer's responsibility for system's property.
- 18-122. Customer's responsibility for violations.
- 18-123. Supply and resale of water.
- 18-124. Unauthorized use of or interference with water supply.

¹Municipal code references

Building, utility and housing codes: title 12.

Refuse disposal: title 17.

- 18-125. Limited use of unmetered private fire line.
- 18-126. Damages to property due to water pressure.
- 18-127. Liability for cutoff failures.
- 18-128. Restricted use of water.
- 18-129. Interruption of service.
- 18-130. Fluoridation of water supply.
- 18-131. Policy for adjustment of abnormal water/sewer bills.
- 18-132. Penalty.

18-101. Application and scope. These rules and regulations are a part of all contracts for receiving water service from the Town of Huntingdon and shall apply whether the service is based upon contract, agreement, signed application, or otherwise. (1978 Code, § 13-101)

18-102. Definitions. (1) "Customer" shall mean any person, firm, group, or corporation who receives public water service from the town under either an express or implied contract.

(2) "Household" shall mean any two (2) or more persons living together as a family group, and is synonymous with the term "family unit."

(3) "Dwelling" shall mean any single structure together with all auxiliary buildings, which is used for residential purposes, and which may contain one or more "dwelling units."

(4) "Dwelling unit" shall mean any portion of a residential dwelling which is provided with separate facilities for sleeping, cooking and bathing, and which is occupied by one (1) or more persons for residential purposes. Each such unit in a multiple dwelling, apartment, tenement, etc., shall, for the purposes of this regulation, be deemed a "dwelling unit."

(5) "Premise" shall mean any structure, or group of related structures, operated as a single business or enterprise, provided, however, that the term "premise" shall not apply to structures used for commercial rental residential dwellings.

(6) "Service line" shall consist of the pipe line extending from any water main of the town to private property. Where a meter and meter box are located on private property, the service line shall be construed to include the pipe line extending from the town's water main to and including the meter and meter box.

(7) "Due date" shall mean the 10th day of each month following the month for which service is billed, except when some other date may be provided by specific contract. Where the 10th of the month falls on a weekend or holiday, the "due date" shall be the first regular working day of the town following the 10th. The "due date" is the last date upon which the utility bill can be paid without a ten percent (10%) "late charge" being added. This late charge shall be applied to both the water and sewer charges on the bill.

(8) "Cut-off date" shall mean the 20th day of each month following the "due date" for the bill for services provided, except when some other date may be provided by specific contract. This is the date upon which water service may be discontinued without further notice to the customer for non-payment of the water bill. Where the 20th falls on a weekend or holiday, the "cut-off date" shall be the first regular working day of the town following the 20th. (1978 Code, § 13-102, as amended by Ord. #343, June 1994)

18-103. Obtaining service. An application for either original or additional service must be made and be approved by the town before connection or meter installation orders will be issued and work performed. (1978 Code, § 13-103)

18-104. Application and contract for service. Each prospective customer desiring water service will be required to sign a standard form of contract before service is supplied. If, for any reason, a customer, after signing a contract for water service, does not take such service by reason of not occupying the premises or otherwise, he shall reimburse the town for the expense incurred by reason of its endeavor to furnish said service.

The receipt of a prospective customer's application for service, regardless of whether or not accompanied by a deposit, shall not obligate the town to render the service applied for. If the service applied for cannot be supplied in accordance with these rules and regulations and general practice, the liability of the town to the applicant for such service shall be limited to the return of any deposit made by such applicant.

All residential customers furnishing legal documents showing ownership of the property, shall be required to pay a thirty dollar (\$30.00) water meter charge with their application for water service before such service is provided. All other residential customers shall be required to pay a one hundred dollar (\$100.00) water meter charge with their application for water service. Commercial and industrial customers shall be required to pay a fifty dollar (\$50.00) water meter charge. These meter charges may be applied as a credit toward the payment of the customer's final bill upon termination of water services. (1978 Code, § 13-104, as amended by Ord. #343, June 1994, and replaced by Ord. #481, June 2005)

18-105. Service charges for temporary service. Customers requiring temporary service shall pay all costs for connection and disconnection incidental to the supplying and removing of service in addition to the regular charge for water used. (1978 Code, § 13-105)

18-106. Charges and fees – general. Service lines will be laid by the town from its mains to the property line at the expense of the town. The location of such lines will be determined by the town. When a service line is completed, the town shall be responsible for the maintenance and upkeep of such service line from the main to and including the meter and meter box, and such portion of the service line shall belong to the town. The remaining portion

of the service line beyond the meter box shall belong to and be the responsibility of the customer.

(1) Connection charge. Before a new service line will be laid by the town, the applicant for service shall pay a connection fee of the following amount to the town (see (4) below for contractors):

- (a) For a 3/4" service line \$ 400.00
- (b) For a 1" service line \$ 500.00
- (c) For a 1 1/2" service line \$ 750.00
- (d) For a 2" service line \$1,100.00
- (e) For a 3/4" service line outside corporate limits . \$ 650.00

Should the actual cost to the town for said connection exceed the minimum charge, there shall be added to this minimum fee a sum representing the actual cost of labor and materials in excess the tap fee.

(2) Transfer fee. Each customer who wishes to transfer their account from one (1) location within the town to another location, without a lapse in service, shall be charged a transfer fee in the sum of twenty-five dollars (\$25.00) for each such transfer of account, and shall be billed such fee on the first billing at the new location.

(3) Temporary suspension of service fee. Customers who wish to have their water service suspended temporarily (i.e. for vacation periods, etc.) shall be charged a temporary suspension of service fee in the sum of twenty-five dollars (\$25.00) for each period of suspension, and shall pay such fee on the first billing after reconnection of such service.

(4) Inspection fee. Contractors and/or developers who will install all the water mains, service lines, meters, meter boxes, and all other supplies and labor required to connect the units being constructed to the town's water system, and who bear the full cost of such construction - without any expense to the town - shall be assessed an inspection fee in the sum of \$50.00 for each individual unit so connected in lieu of the connection charge required by paragraph (1) above. Such fee(s) shall be paid to the town prior to any connection to the town's public water system. Ownership of such newly constructed systems shall be as outlined in "general," above.

(5) Reconnection fee. The specific amount of these fees for reconnection of water service after discontinuation (cut-off) for failure to pay a bill is contained in § 18-117 below. (1978 Code, § 13-106, as amended by Ord. #343, June 1994, Ord. #371, Aug. 1995, Ord. #377, June 1996, Ord. #481, June 2005, and Ord. #495, Sept. 2006)

18-107. Main extensions to developed areas. The provisions of this section shall apply only to water main extensions of 500 feet or less to areas where there is a demand for water service by the occupants of existing houses. This section shall in no event be applicable to land development projects and subdivision promotion, even though accompanied by the erection of occasional houses within such areas.

Owners of property to be served by a proposed water main extension of the character to which this section applies shall pay to the town the regular charge for each connection desired immediately and shall also assume one minimum monthly bill for each 100 feet, or fraction thereof, of said proposed extension, the connection charge to be paid and the agreement to pay minimum monthly bills to be signed before the work is begun. The town shall require a cash deposit as security for such minimum bill agreement, in an amount that does not exceed the estimated cost of the main extension, before making any such requested extension. Beginning with the completion of the water main extension, such persons shall pay water bills at least equal to the minimum monthly charges agreed upon, until the obligation for the payment of such persons acceptable to the town at which times prorata amounts of the cash deposit shall also be returned to the depositors. (1978 Code, § 13-107)

18-108. Main extensions to other areas. The provisions of this section shall apply to all areas to which the preceding section is not applicable. Customers desiring water main extensions pursuant to this section must pay all of the cost of making such extensions.

For installations under this or the preceding section, pipe meeting American Water Works Association Standards, not less than six (6) inches in diameter, shall be used to the dead end of any line and to form loops or continuous lines, so that fire hydrants may be placed on such lines at locations no farther than 1,000 feet from the most distant part of any dwelling structure and no farther than 600 feet from the most distant part of any commercial, industrial, or public building, such measurements to be based on road or street distances; A.W.W.A. approved pipe two (2) inches in diameter, to supply dwellings only, may be used to supplement such lines. All such lines shall be installed either by municipal forces or by other forces working directly under the supervision of the town.

Upon completion of such extensions and their approval by the town, such water mains shall become the property of the town. The persons paying the cost of constructing such mains shall execute any written instruments requested by the town to provide evidence of the town's title to such mains. In consideration of such mains being transferred to it, the town shall incorporate said mains as an integral part of the municipal water system and shall furnish water therefrom in accordance with these rules and regulations, subject always to such limitations as may exist because of the size and elevation of said mains. (1978 Code, § 13-108)

18-109. Variances from and effect of preceding rules as to extensions. Whenever the town council is of the opinion that it is to the best interest of the water system to construct a water main extension without requiring strict compliance with §§ 18-107 and 18-108, such extension may be

constructed upon such terms and conditions as shall be approved by the town council.

The authority to make water main extensions under §§ 18-107 and 18-108 is permissive only and nothing contained therein shall be construed as requiring the town to make water main extensions or to furnish service to any person or persons. (1978 Code, § 13-109)

18-110. Main extensions outside town corporation limits. Any and all extensions of the town's public water distribution system outside the town's corporate limits shall require prior approval of the town council. The construction of all such extensions shall be by, or under the supervision of, the town's public utility department and shall be consistent with prevailing state and municipal rules and regulations for water line construction. All such extensions shall become a part of the town's public water distribution system. Any charges or fees to be required of recipients of water services from such extension outside the corporate limits shall be established and approved by the governing body prior to each construction.

Effective July 1st, 1994, ownership of all existing private water lines, either within or without the town's corporate limits, which are connected to the town's public water distribution system and which have not been incorporated into said system must become a part of the town's public water distribution system. This may be accomplished by dedication of such water lines or systems to the Town of Huntingdon by the owners or operators thereof by proper legal instruments, subject to the review and approval of the town attorney and acceptance of such dedication by the town council.

If an area is annexed by the town where privately owned mains are located, all mains shall become the property of the Town of Huntingdon. In consideration of such mains being transferred to it, the town shall incorporate said mains as an integral part of the municipal water system and shall furnish water therefrom in accordance with all town rules and regulations, subject always to such limitations as may exist because of the size and elevation of said mains. (1978 Code, § 13-109, as amended by Ord. #343, June 1994)

18-111. Meters. All water furnished to any and all customers of the town shall be provided only through the appropriate water meter. All customers of the system, including departments or activities of the town, shall be metered and charged for all water used at the prevailing rates. In those rare cases where water is supplied through a non-metered source, such as a fire hydrant, the Public Utility Department shall make a reasonable estimate of the volume of water used, which shall be charged at the prevailing rates. All meters shall be installed, tested, repaired, and removed only by the town.

No one shall do anything which will in any way interfere with or prevent the operation of a meter. No one shall tamper with or work on a water meter without the written permission of the town. No one shall install any pipe or

other device which will cause water to pass through or around a meter without the passage of such water being registered fully by the meter.

Water customers who unlawfully reconnect to the town's public water system after having been disconnected by the town's public utility department may, in addition to other legal remedies, with the review and approval of the town council, be denied access to the town's public water distribution system. (1978 Code, § 13-110, as amended by Ord. #343, June 1994)

18-112. Meter tests. The town will, at its own expense, make routine tests of meters when it considers such tests desirable. In testing meters, the water passing through a meter will be weighed or measured at various rates of discharge and under varying pressures. To be considered accurate, the meter registration shall check with the weighed or measured amounts of water within the percentage shown in the following table:

<u>Meter Size</u>	<u>Percentage</u>
5/8", 3/4", 1", 2"	2%
3"	3%
4"	4%
6"	5%

The town will also make tests or inspections of its meters at the request of the customer. However, if a test requested by a customer shows a meter to be accurate within the limits stated above, the customer shall pay a meter testing charge in the amount stated in the following table:

<u>Meter Size</u>	<u>Test Charge</u>
3/4", 1"	\$7.50
1-1/2", 2"	10.00
3"	12.50
4"	12.50
6" and over	20.00

If such test shows a meter not to be accurate within such limits, the cost of such meter test shall be borne by the Town of Huntingdon. (1978 Code, § 13-111)

18-113. Schedule of rates. Effective with the January 2010 billing, the following rates for the sale of water of the town based on the measured or estimated volume to the nearest multiple of one hundred (100) gallons are established as follows on a monthly basis:

(1) Water Rates - Inside Corporate Limits:

<u>Usage</u>	<u>Rate</u>
0 - 2,000 gallons	\$9.78 (minimum charge)
2,100 - 10,000 gallons	\$5.41 per 1,000 gallons
10,100 - 100,000 gallons	\$4.58 per 1,000 gallons
100,100 - 500,000 gallons	\$4.19 per 1,000 gallons
500,100 - and over	\$2.10 per 1,000 gallons

(2) Water Rates - Outside Corporate Limits:

<u>Usage</u>	<u>Rate</u>
0 - 2,000 gallons	\$12.81 (million charge)
2,100 - and over	\$7.54 per 1,000 gallons

(3) Special Commercial Water Rates: The bulk sale of treated public water to special customers such as other public water districts, contractors, etc., shall be at the flat rate of \$1.50 per 1,000 gallons.

(a) Should such sale involve connection(s) with the town's public water distribution system, such connections shall be made only in conformance with the plans and specifications approved by the town's consulting engineers, and subject to specific contracts as approved by the town council.

(b) All expenses relative to equipment, supplies or material required to effect the transfer of said water shall be paid by the user. Ownership of the connecting equipment, i.e., pumps, valves, meters, etc., shall be vested in the Town of Huntingdon, and duly maintained by its utility department.

(4) The rate for sprinklers or other similar fire protection charge shall be \$15.00 per month per system. (1978 Code, § 13-112, as amended by Ord. #481, June 2005, and Ord. #519, Oct. 2009)

18-114. Multiple dwelling units or premises served by a single meter. (1) Effective September 1, 1985, all conversion of existing residential dwellings or construction of new residential dwellings to provide for multiple dwelling units shall be required to provide a separate water meter for each such dwelling unit. Further, effective the same date, all conversion of an existing structure to contain more than one business or enterprise, or the construction of new structures for this purpose, shall provide a separate water meter for each such premise. Exceptions to this policy will be granted only by specific authorization of the town council in certain circumstances, such as a housing project which will use a master meter and a negotiated rate/billing system.

(2) In those instances where multiple dwellings, dwelling units or premises were authorized water service through a single service line and meter

prior to September 1, 1985, the amount of water used by all the dwellings, dwelling units, or premises served through a single service line and meter shall be allocated to each separate dwelling, dwelling unit or premise so served. The water charge for each such dwelling, dwelling unit or premise thus served shall be computed just as if each such dwelling, dwelling unit or premise had received through a separately metered service the amount of water so allocated to it; that is, the total meter reading shall be divided by the total number of dwellings, dwelling units or premises so served and the applicable rate schedule applied to the prorata meter reading, including the provision for minimum bills. The separately computed charges for each dwelling, dwelling unit or premise so served shall then be added together, and the sum thereof shall be billed to the customer in whose name the meter service is supplied. (NOTE: The sewer users fees and solid waste collection and disposal charges shall be applied to each separate dwelling, dwelling unit or premise in the same manner, and shall be totaled and added to the monthly water bill.)

(3) Water services to mobile home parks shall be supplied through one master meter. The rates for water services for such customers shall be computed as commercial rates as established by the town council.

(4) Exclusion. The policy defined in sub-section (2), above, is not intended for, and shall not apply in those specific instances where the private owner and occupant of a single residential dwelling has provided facilities therein, to include sleeping, cooking and bathing facilities, for a member or members of his or her immediate family, provided that there is no external alteration in the existing structure, and that there is no rent or other charges imposed on such family members. (1978 Code, § 13-113)

18-115. Billing. Bills for residential service will be rendered monthly.

Bills for commercial and industrial service may be rendered weekly, semimonthly, or monthly, at the option of the town.

Utility bills (which includes water, sewer service and solid waste charges) are mailed out on or about the 25th day of each month for the prior month's consumption, and are to be paid in full on or before the 10th day of the following month, which is the "due date", or the first working day thereafter should the 10th fall on a week-end or a holiday. Customer paying their utility bills in full on or before the "due date" shall pay the "net" amount as shown on the bill. Customers paying their utility bill after the "due date" shall pay the "gross" amount as shown on the bill, which includes a ten percent (10%) "late charge". Failure to receive a water bill will not release the customer from payment obligation, nor extend the "due date".

In the event a bill is not paid on or before five (5) days after the due date, a written notice shall be mailed to the customer. The notice shall advise the customer that his service may be discontinued without further notice if the bill is not paid on or before ten (10) days after the due date. The town shall

not be liable for any damages resulting from discontinuing service under the provisions of this section, even though payment of the bill is made at any time on the day that service is actually discontinued.

Should the final date of payment of a bill at the regular rate fall on Sunday or a holiday, the business day next following the final date will be the last day to pay without penalty. A remittance received by mail after the due date will be accepted by the town if the envelope is date stamped on or before the final date for payment of the bill.

If a meter fails to register properly, or if a meter is removed to be tested or repaired, or if water is received other than through a meter, the town reserves the right to render an estimated bill based on the best information available.

All current utility bills which are due and payable not later than the 10th day of the month shall become delinquent on the 20th day of that month, or the next working day should the 20th fall on a week-end or a holiday. A delinquent customer's service may be terminated without further notice and shall be subject to reconnection fees as indicated in § 18-117, below. All payments are normally to be made to the department of finance and administration in the Huntingdon Municipal Building. The utility department personnel may only accept payment on delinquent accounts made after normal working hours to prevent discontinuance of water service. Partial payments on customer's accounts will not be accepted. All accounts must be paid in full for continuation of services. (1978 Code, § 13-114, as amended by Ord. #343, June 1994)

18-116. Discontinuance or refusal of service. The town council shall have the right to discontinue service or to refuse to connect service for a violation of, or a failure to comply with, any of the following:

- (1) These rules and regulations.
- (2) The customer's application for service.
- (3) The customer's contract for service.

Such right to discontinue service shall apply to all service received through a single connection or service, even though more than one (1) customer or tenant is furnished service therefrom, and even though the delinquency or violation is limited to only one such customer or tenant.

Discontinuance of service by the town for any cause stated in these rules and regulations shall not release the customer from liability for service already received or from liability for payments that thereafter become due under other provisions of the customer's contract.

Water services will not be terminated on delinquent accounts without due process if the customer has a bona fide dispute concerning the correctness of a bill, and has filed due notice of same with the department of finance and administration and/or the superintendent of utilities. Should the department of finance and administration or the superintendent of utilities be unable to reach accord with the customer, the customer may appeal the dispute to the

town council for resolution. (1978 Code, § 13-115, as amended by Ord. #343, June 1994)

18-117. Reconnection fee. Whenever water service has been discontinued for non-payment, as provided for above, the customer effected shall pay the balance in full on their utility account plus a reconnection fee. This fee shall be fifteen dollars (\$15.00) for reconnections made during the utility department's regular working hours of 7:00 A.M. to 4:00 P.M., Monday through Friday, or twenty-five dollars (\$25.00) for reconnections made at other (non-work) hours. (Ord. #343, June 1994)

18-118. Termination of service by customer. Customers who have fulfilled their contract terms and wish to discontinue service must give at least three (3) days written notice to that effect unless the contract specifies otherwise. Notice to discontinue service prior to the expiration of a contract term will not relieve the customer from any minimum or guaranteed payment under such contract or applicable rate schedule.

When service is being furnished to an occupant of premises under a contract not in the occupant's name, the town reserves the right to impose the following conditions on the right of the customer to discontinue service under such a contract:

(1) Written notice of the customer's desire for such service to be discontinued may be required; and the town shall have the right to continue such service for a period of not to exceed ten (10) days after receipt of such written notice, during which time the customer shall be responsible for all charges for such service. If the town should continue service after such ten (10) day period subsequent to the receipt of the customer's written notice to discontinue service, the customer shall not be responsible for charges for any service furnished after the expiration of such ten (10) day period.

(2) During such ten (10) day period, or thereafter, the occupant of premises to which service has been ordered discontinued by a customer other than such occupant, may be allowed by the town to enter into a contract for service in the occupant's own name upon the occupant's complying with these rules and regulations with respect to a new application for service. (1978 Code, § 13-117)

18-119. Access to customers' premises. The town's identified representatives and employees shall be granted access to all customers' premises at all reasonable times for the purpose of reading meters, for testing, inspecting, repairing, removing, and replacing all equipment belonging to the town, and for inspecting customers' plumbing and premises generally in order to secure compliance with these rules and regulations. (1978 Code, § 13-118)

18-120. Inspections. The town shall have the right, but shall not be obligated, to inspect any installation or plumbing system before water service is furnished or at any later time. The town reserves the right to refuse service or to discontinue service to any premises not meeting standards fixed by municipal ordinances regulating building and plumbing, or not in accordance with any special contract, these rules and regulations, or other requirements of the town.

Any failure to inspect or reject a customer's installation or plumbing system shall not render the town liable or responsible for any loss or damage which might have been avoided had such inspection or rejection been made. (1978 Code, § 13-119)

18-121. Customer's responsibility for system's property. Except as herein elsewhere expressly provided, all meters, service connections, and other equipment furnished by or for the town shall be and remain the property of the town. Each customer shall provide space for and exercise proper care to protect the property of the town on his premises. In the event of loss or damage to such property arising from the neglect of a customer properly to care for same, the cost of necessary repairs or replacements shall be paid by the customer. (1978 Code, § 13-120)

18-122. Customer's responsibility for violations. Where the town furnishes water service to a customer, such customer shall be responsible for all violations of these rules and regulations which occur on the premises so served. Personal participation by the customer in any such violations shall not be necessary to impose such personal responsibility on him. (1978 Code, § 13-121)

18-123. Supply and resale of water. All water shall be supplied within the town exclusively by the town, and no customer shall, directly or indirectly, sell, sublet, assign, or otherwise dispose of the water or any part thereof, except with written permission from the town. (1978 Code, § 13-122)

18-124. Unauthorized use of or interference with water supply. No person shall turn on or turn off any of the town's stop cocks, valves, hydrants, spigots, or fire plugs without permission or authority from the town. (1978 Code, § 13-123)

18-125. Limited use of unmetered private fire line. Where a private fire line is not metered, no water shall be used from such line or from any fire hydrant thereon, except to fight fire or except when being inspected in the presence of an authorized agent of the town.

All private fire hydrants shall be sealed by the town, and shall be inspected at regular intervals to see that they are in proper condition and that

no water is being used therefrom in violation of these rules and regulations. When the seal is broken on account of fire, or for any other reason, the customer taking such service shall immediately give the town a written notice of such occurrence. (1978 Code, § 13-124)

18-126. Damages to property due to water pressure. The town shall not be liable to any customer for damages caused to his plumbing or property by high pressure, low pressure, or fluctuations in pressure in the town's water mains. (1978 Code, § 13-125)

18-127. Liability for cutoff failures. The town's liability shall be limited to the forfeiture of the right to charge a customer for water that is not used but is received from a service line under any of the following circumstances:

(1) After receipt of at least ten (10) days' written notice to cut off a water service, the town has failed to cut off such service.

(2) The town has attempted to cut off a service but such service has not been completely cut off.

(3) The town has completely cut off a service, but subsequently, the cutoff develops a leak or is turned on again so that water enters the customer's pipes from the town's main.

Except to the extent stated above, the town shall not be liable for any loss or damage resulting from cutoff failures. If a customer wishes to avoid possible damage for cutoff failures, the customer shall rely exclusively on privately owned cutoffs and not on the town's cutoff. Also, the customer (and not the town) shall be responsible for seeing that his plumbing is properly drained and is kept properly drained, after his water service has been cut off. (1978 Code, § 13-126)

18-128. Restricted use of water. In times of emergencies or in times of water shortage, the town reserves the right to restrict the purposes for which water may be used by a customer and the amount of water which a customer may use. (1978 Code, § 13-127)

18-129. Interruption of service. The town will endeavor to furnish continuous water service, but does not guarantee to the customer any fixed pressure or continuous service. The town shall not be liable for any damages for any interruption of service whatsoever.

In connection with the operation, maintenance, repair, and extension of the municipal water system, the water supply may be shut off without notice when necessary or desirable and each customer must be prepared for such emergencies. The town shall not be liable for any damages from such interruption of service or for damages from the resumption of service without notice after any such interruption. (1978 Code, § 13-128)

18-130. Fluoridation of water supply. The water department of the Town of Huntingdon is hereby authorized and instructed to make plans for the fluoridation of the water supply of the Town of Huntingdon; to submit such plans to the Department of Health of the State of Tennessee for approval, and, upon approval, to add such chemicals as fluoride to the water supply in accord with such approval as will adequately provide for the fluoridation of said water supply.

The cost of such fluoridation will be borne by the revenues of the water department. (1978 Code, § 13-129)

18-131. Policy for adjustment of abnormal water/sewer bills. Any customer of the public utility department of the Town of Huntingdon shall have the right to request an adjustment on his monthly water/sewer bill under the following conditions:

(1) Adjustments due to leakage. A customer of the town's water and sewer services may petition for an adjustment in his monthly water and sewer bill in those cases where there has been a leak in the water line between the town's water meter and the point of use on the customer's property when the customer took appropriate and timely action to repair the leak, and where the leak resulted in a total monthly water and sewer bill which exceeds the previous twelve (12) month average bill by fifty dollars (\$50.00). If the customer has had service for less than twelve (12) months, the monthly average for the total months served will be used.

(a) The superintendent of utilities is authorized to approve two (2) such petitions for adjustments per customer per calendar year.

(b) The adjustment formula for water shall be the average of the monthly water bills for the prior twelve (12) months, or if the customer has had service for less than twelve (12) months, the monthly average for the total months served, plus fifty percent (50%) of the amount billed over this average.

The adjustment formula for sewer shall be to remove all excess sewer charges above a customer's twelve (12) month average, or if the customer has had service for less than twelve (12) months, the monthly average for the total months served.

(Example: A customer has a bill of one hundred fifty dollars (\$150.00). His average charge for water is twenty-five dollars (\$25.00). His adjusted billing for water will be twenty-five dollars (\$25.00) plus fifty percent (50%) of the balance over the average billing of water. The sewer is adjusted to the customer's twelve (12) month average for sewer billing.)

(c) The town council will not consider a petition for such adjustments unless the leakage results in a total monthly water and sewer bill which exceeds two hundred fifty dollars (\$250.00).

(2) Other adjustments. In other cases where complaints of unexplained abnormally high water/sewer bills have been received, the superintendent of utilities will cause an investigation to be made to determine if the meter was read incorrectly; if the bill was calculated incorrectly, or if the meter is malfunctioning. If one of these three situations is the case, the superintendent of utilities will adjust the water/sewer bill in question to the average monthly billing that the customer received over the past twelve (12) months; the months he has had service if less than twelve (12) months, or the average monthly billing since the last water/sewer rate increases if less than twelve (12) months.

(3) Swimming pool adjustments. The adjustment policy for water/sewer bills reflecting the filling of a swimming pool shall be to adjust sewer only. The sewer shall be adjusted to the average of the monthly sewer bills for the prior twelve (12) months, or if customer has had service for less than twelve (12) months, the monthly average for the total months served. (1978 Code, § 13-130, as amended by Ord. #402, July 1998, and Ord. #514, June 2009)

18-132. Penalty. Any person who violates the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than fifty dollars (\$50.00), and/or such persons enjoined from continuing such violations. Each day upon which such a violation occurs shall constitute a separate and triable offense. (Ord. #343, June 1994)

CHAPTER 2**WASTEWATER COLLECTION AND TREATMENT SYSTEMS****SECTION**

- 18-201. Purpose and policy.
- 18-202. Duties of superintendent of utilities.
- 18-203. Definitions.
- 18-204. Abbreviations.
- 18-205. Use of public sewers required.
- 18-206. Building sewers and connections.
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- 18-209. Recovery of cost.
- 18-210. Administration.
- 18-211. Unlawful to damage sewer works.
- 18-212. Penalties.
- 18-213. Powers and authority of inspectors.
- 18-214. Enforcement - significant industrial users.
- 18-215. Policy and procedure of sewer grinder pumps.

18-201. Purpose and policy. This chapter sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the Town of Huntingdon and enables the town to comply with all applicable state laws and regulations and federal laws required by the Federal Water Pollution Control Act of 1972 and its subsequent amendments, and the General Pretreatment Regulations (40 CFR, Part 403).

(1) The objectives of this chapter are:

(a) To protect the public health;

(b) To prevent the introduction of pollutants into the Publicly Owned Treatment Works (POTW) which will interfere with the operation of the system or contaminate the resulting sludge;

(c) To prevent the introduction of pollutants into the POTW system in amounts which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;

(d) To improve the opportunity to recycle and reclaim wastewaters and sludges from the POTW system; and

(e) To provide for the full and equitable distribution of the cost of the POTW system.

(2) This chapter provides for the regulation of contributors to the POTW system through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes

monitoring and enforcement activities, requires user reporting, assumes that existing customer's capacity will not be pre-empted, and provides for the setting of fees and charges for the equitable distribution of costs relating to the administration, operation, maintenance, amortization of debt and depreciation of the POTW.

(3) This chapter shall apply to the Town of Huntingdon and to persons outside the town who are, by contract or agreement with the town, users of the POTW. Except as otherwise provided herein, the superintendent of the POTW shall administer, implement, and enforce the provisions of this chapter. (Ord. #344, Aug. 1994)

18-202. Duties of superintendent of utilities. The superintendent of utilities shall be charged with the responsibility of supervising and maintaining the publicly owned sewer collection and disposal system (POTW) of the town, and in the further performance of the following specific duties:

(1) To require all owners to connect with the sewer system pursuant to prevailing policies of the town;

(2) To require each user of the sewer system to pay for services furnished;

(3) To bring necessary suits to recover delinquent and unpaid sewer service fees and charges; and

(4) To make periodic reports to the town council relating to the operation of the sewer system. (Ord. #344, Aug. 1994)

18-203. Definitions. Unless the context specifically indicates otherwise, the following terms and phrases as used in this chapter shall have the meanings hereinafter designated:

(1) "Act" or "the Act." The Federal Water Pollution Control Act, enacted by Public Law 92-500, October 18, 1972, 33 USC 1251 et seq.; as amended by PL 95-217, December 28, 1977; PL 97-117, December 29, 1981 PL 97-440, January 8, 1983; and PL 100-04, February 4, 1987.

(2) "Approval authority." The Commissioner of the Tennessee Department of Environment and Conservation.

(3) "Authorized representative of industrial user." An authorized representative of an industrial user may be a principal executive officer of at least the level of vice-president, if the industrial user is a corporation; a general partner or proprietor if the industrial user is a partnership or proprietorship, respectively; or a duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

(4) "Biochemical oxygen demand (BOD)." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at 20° centigrade expressed in terms of weight and concentration.

(5) "Building drain." That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet outside the innerface of the building wall. (The term "building" includes all structures - residential, business, commercial or industrial.)

(6) "Building sewer line." A sewer line conveying wastewater from the building to the public sewer. (Also known as a "service line", and is usually the responsibility of the property owner.)

(7) "Categorical pretreatment standards." See national pretreatment standard or pretreatment standard.

(8) "Categorical industrial user." An industrial user subject to categorical or national pretreatment standards.

(9) "Chronic violation." The term used to describe violations of an industrial wastewater discharge permit when the limit for any one parameter listed in the permit is exceeded by any magnitude for sixty-six (66) percent or more of the total industrial self-monitoring plus control authority compliance monitoring measurements made in the six-month period covered by the semi-annual report required by the approval authority.

(10) "Combined sewer." A sewer receiving both surface runoff and sewage.

(11) "Cooling water." The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

(12) "Control authority." The term "control authority" shall refer to the superintendent of the utility department of the Town of Huntingdon.

(13) "Conventional pollutants." Biochemical oxygen demand (BOD), total suspended solids (TSS), fecal coliform bacteria, oil and grease, and pH(40 CFR 401.16).

(14) "Daily maximum limits." The maximum allowable discharge of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limitations are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

(15) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(16) "Domestic waste." Wastewater that is generated by a single family, apartment or other dwelling unit, or dwelling unit equivalent containing sanitary facilities for the disposal of wastewater and used for residential purposes only and/or restroom wastes from commercial, institutional and industrial users.

(17) "Garbage." Solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of food and produce.

(18) "Environmental Protection Agency." The U.S. Environmental Protection Agency (EPA), or where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of said agency.

(19) "Grab sample." A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

(20) "Holding tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(21) "Industrial wastes." The liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

(22) "Indirect discharge." The discharge or the introduction of nondomestic pollutants from any source regulated under Section 307(b),(c), or (d) of the Act, into the POTW (including holding tank waste discharged into the system).

(23) "Industrial user (IU)." A source of non-domestic waste. Any nondomestic source discharging pollutants to the POTW.

(24) "Industrial wastewater discharge permit." As set forth in § 18-210(3) of this chapter.

(25) "Instantaneous maximum limit." The maximum allowable concentration of a pollutant determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

(26) "Interference." An indirect discharge which alone or in conjunction with an indirect discharge or discharges from other sources:

(a) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and

(b) Therefore, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder: Section 405 of the Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA) and including state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA); the Clean Air Act; the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act (40 CFR 403.3).

(27) "National pretreatment standard or pretreatment standard." Any regulation promulgated by the EPA in accordance with Section 307 (b) and (c)

of the Act which applies to a specific category of industrial users and provides limitations on the introduction of pollutants into POTW (40 CFR 403.6 and 405-471). This term includes the national prohibited discharge standards under 40 CFR 403.5, including local limits [40 CFR 403.3(j)].

(28) "National prohibitive discharges." Prohibitions applicable to all non-domestic dischargers regarding the introduction of pollutants into POTW's set forth in 40 CFR 403.5.

(29) "Natural outlet." Any outlet into a ditch, watercourse, pond, lake, other body of surface or groundwater.

(30) "New source." Any building, structure, facility of installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed national pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(a) The building, structure, facility or installation is constructed at a site at which no other source is located, or

(b) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source, or

(c) The production or wastewater-generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered; and,

(i) Construction on the site at which an existing source is located results in a modification rather than a new source; if the construction does not create a new building, structure, facility or installation meeting the criteria of this paragraph but otherwise alters, replaces, or adds to the existing process or production equipment; and

(ii) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

(A) Begun, or caused to begin as part of a continuous on-site construction program;

(B) Significant site preparation work including clearing, excavation or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment; or

(C) Entered into a binding contractual obligation for the purchase of facilities or equipment which are

intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this paragraph.

(31) "National Pollutant Discharge Elimination System or NPDES Permit." A permit issued pursuant to Section 402 of the Act.

(32) "Person." Any individual, partnership, co-partnership, firm, company, corporation, association, joint-stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, and the singular shall include the plural, where indicated by the context.

(33) "pH." The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(34) "Pollution." The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(35) "Pollutant." Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal and agricultural waste discharged into water.

(36) "Pretreatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. [40 CFR Section 403.3(q)].

(37) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard imposed on an industrial user, including but not limited to discharge limits, sampling requirements, analytical requirements, reporting requirements, and compliance schedules.

(38) "Prohibited discharge." Discharge of a pollutant which may cause pass-through or interference to the POTW, pursuant to 40 CFR 403.5.

(39) "Properly shredded garbage." The waste from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half ($\frac{1}{2}$) inch (1.27 centimeters) in any dimension.

(40) "Publicly owned treatment works (POTW)." A treatment works as defined by Section 212 of the Act which is owned in this instance by the town. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this chapter, "POTW" shall also include any sewers that convey wastewaters to the POTW

from persons outside the town who are, by contract or agreement with the town, users of the POTW.

(41) "POTW treatment plant." That portion of the POTW designed to provide treatment to wastewater. (Can also include wastewater treatment lagoons.)

(42) "Shall" is mandatory: "May" is permissive.

(43) "Sanitary sewer." A sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.

(44) "Significant industrial user." Any industrial user of the POTW system who is a categorical industrial user; or has a discharge flow to the POTW of 25,000 gallons or more per average work day of process wastewater (excluding sanitary, non-contract cooling and boiler blowdown wastewater); or has process wastewater discharge flow or conventional pollutant waste load greater than 5% of the dry weather hydraulic or organic flow or waste load in the POTW system; or has in his wastes toxic pollutants as defined pursuant to Section 307 of the Act or Tennessee Statutes or rules; or is found by the town, Tennessee Department of Environment and Conservation or the U.S. Environmental Protection Agency (EPA) to have significant impact, either singly or in combination with other contributing industries, on the POTW, the quality of sludge, the POTW's effluent quality, or air emissions generated by the POTW system.

(45) "Significant noncompliance (SNC)." Any violation of pretreatment requirements which meet one or more of the following criteria:

(a) "Violations of wastewater discharge limits:

(i) Chronic violations,

(ii) Technical review criteria (TRC) violations,

(iii) Any other violation(s) of an industrial wastewater discharge permit effluent limit that the control authority believes has caused, alone or in combination with other discharges, interferences (e.g., slug loads) or pass through; or endangered the health of the POTW personnel or the public, or

(iv) Any discharge of a pollutant that has caused imminent endangerment to human health/welfare or to the environment and/or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.

(b) Violations of compliance schedule milestones, contained in an enforcement order by 90 days or more after the schedule date. Milestones may include but not be limited to dates for starting construction, completing construction and attaining final compliance.

(c) Failure to provide reports for compliance schedules, self-monitoring data or categorical standards (baseline monitoring

reports, 90-day compliance reports and periodic reports) within 30 days from the due date.

(d) Failure to accurately report noncompliance.

(46) "Significant violation." A violation which remains uncorrected 45 days after notification of noncompliance which is part of a pattern of noncompliance over a twelve-month period, which involves a failure to accurately report noncompliance, or which resulted in the POTW exercising its emergency authority under CFR 403.8 (f) (l) (vi) (b).

(47) "Slug." Any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quality of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

(48) "State." State of Tennessee.

(49) "Standard industrial classification (SIC)" A classification pursuant to the Standard Industrial Classification Manual issued by the Executive office of the President, Office of Management and Budget, 1987.

(50) "Storm drain." A sewer which carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water (sometimes termed "storm sewer").

(51) "Storm water." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(52) "Subsurface sewage disposal system." A septic tank and related dispersion field or leach beds (normally a private system).

(53) "Superintendent." The person designated by the town to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.

(54) "Surcharge." A fee charged to industrial users in excess of the normal sewer user charge to cover the additional expenses incurred by the POTW for treating conventional pollutants of a higher concentration than the POTW treatment plant was designed to treat, but which do not cause an interference with the POTW.

(55) "Suspended solids." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

(56) "Technical review criteria (TRC) violation." The term used to describe violations of an industrial wastewater discharge permit when:

(a) The limit for biochemical oxygen demand, total suspended solids, ammonia nitrogen, fats, oil and grease is exceeded by 140 percent for thirty-three (33) percent or more of the total industrial self-monitoring plus control authority compliance monitoring measurements made in the six-month period covered by the semi-annual report required by the approval authority.

(b) The limit for any other pollutant, except pH, is exceeded by 120 percent for thirty-three (33) percent or more of the total industrial self-monitoring plus control authority compliance monitoring measurements made in the six-month period covered by the semi-annual report required by the approval authority.

(57) "Town." The Town of Huntingdon and/or the mayor and council of the Town of Huntingdon.

(58) "Toxic pollutant." Any pollutant or combination of pollutants listed a toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provision of Section 307(a) of the Act (40 CFR 403 Appendix B).

(59) "User." Any person who contributes, causes or permits the contribution of wastewater into the town's POTW.

(60) "Wastewater." The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

(61) "Waters of the state." All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof. (Ord. #344, Aug. 1994, as amended by Ord. #355, Jan. 1995).

18-204. Abbreviations. The following abbreviations shall have the designated meanings:

BOD	-	Biochemical oxygen demand.
CFR	-	Code of federal regulations.
COD	-	Chemical oxygen demand.
EPA	-	Environmental Protection Agency.
l	-	Liter.
mg	-	Milligrams.
mg/l	-	Milligrams per liter.
NH ₃ -N	-	Ammonia.
NPDES	-	National pollutant discharge elimination system.
POTW	-	Publicly-owned treatment works.
SIC	-	Standard industrial classification.
SWDA	-	Solid Waste Disposal Act, 42 U.S.C. 6901, <u>et seq.</u>
USC	-	United States Code.
TSS	-	Total Suspended Solids.

(Ord. #344, Aug. 1994)

18-205. Use of public sewers required. It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the town, or in any area under the jurisdiction of the town, any human or animal excrement, garbage or other objectionable waste.

(1) It shall be unlawful to discharge to any waters of the state within the town, or in any area under the jurisdiction of the town, any untreated wastewater.

(2) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.

(3) The owners of all houses, building or properties used for human occupancy, employment, recreation, or other purposes, situated within the town, and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the POTW, is hereby required at his expense to install suitable toilet facilities therein and to connect such facilities directly with the proper sanitary sewer by means of a building sewer in accordance with the provisions of this chapter within ninety (90) days after official notice to do so at the place and in the manner as directed by the superintendent, with the following exception:

(a) Where a POTW sanitary sewer is not available within 500 feet of the building drain, the building drain shall be connected to a private subsurface sewage disposal system (PSSDS) complying with the provisions of this chapter and the Tennessee Department of Environment and Conservation, Division of Groundwater Protection chapter 1200-1-6, New and Amended Rules, Regulations to Govern Subsurface Sewage Disposal Systems, subject to prior review and approval by the appropriate state official and the superintendent.

(b) Where the building is connected to a properly functioning and adequate PSSDS, the user may continue to use such system until such time as it ceases to function properly or requires major repairs or replacement at which time the building must be connected to the POTW sewer.

(c) Any residence, office, recreational facility, or other establishment used for human occupancy where the building drain is below the elevation necessary to obtain a grade equivalent to 1/8-inch per linear foot in the building sewer, and where the site cannot receive state approval for the installation of a private subsurface sewage disposal system or the replacement of an existing system, but is otherwise accessible to a public sewer as provided in section (a) above, and the owner desires to connect to the public sewer system, he or she may be permitted to do so by installing a private sewage pumping station thereon, subject to the approval of the town. Such owner shall be

responsible for all cost incidental to the installation and operation of such pumping station(s). (Ord. #344, Aug. 1994)

18-206. Building sewers and connections. (1) General. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any POTW sanitary sewer or appurtenance thereof without first obtaining a written permit from the superintendent. All cost and expense incidental to the installation and connection of the building sewer in excess of established connection fees shall be borne by the owner. The owner shall indemnify the town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(a) A separate and independent building sewer shall be provided for every building; except that where one building stands at the rear of another on an interior lot and no building sewer is available or can be constructed to the rear building through an adjoining alley, court yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(b) Old building sewers may be used in connection with new buildings only when they are found on examination and testing by the superintendent to meet all requirements of this chapter. All others must be sealed to the specifications of the superintendent.

(2) Building sewer construction. Building sewers shall conform to the following requirements:

(a) The minimum size of a building sewer shall be six (6) inches.

(b) The minimum depth of a building sewer shall be eighteen (18) inches.

(c) Six (6) inch building sewers shall be laid on a grade greater than 1/8-inch per foot. Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least 2.0 feet per second.

(d) Slope and alignment of all building sewers shall be neat and regular.

(e) Building sewers shall be constructed only of cast iron soil pipe or ductile iron pipe with compression joints or polyvinyl chloride pipe with rubber compression joints. Under no circumstances will cement mortar joints be acceptable.

(f) Cleanouts shall be located on building sewers as follows: one located five (5) feet outside of the building, one at the tap onto the utility lateral and one at each change of direction of the building sewer which is greater than 45 degrees. Additional cleanouts shall be placed not more than seventy-five (75) feet apart in horizontal building sewers of six (6) inch nominal diameter and not more than one hundred (100) feet apart for larger pipes. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed. A

"Wye" (Y) and 1/8 bend shall be used for the cleanout base. Cleanouts shall not be smaller than four (4) inches on a six (6) inch pipe.

(g) Connections of building sewer lines to the public sewer system shall be made at the appropriate existing wye or tee branch using compression type couplings or collar type rubber joint with corrosion resisting or stainless steel bands. Where existing wye or tee branches are not available, connections of building sewer line shall be made by either removing a length of pipe and replacing it with a wye or tee fitting or cutting a clean opening in the existing public sewer and installing a tee-saddle or tee-insert of a type approved by the superintendent. All such connections shall be made gastight and watertight.

(h) The building sewer line may be brought into the building below the basement floor when gravity flow from the building to the sanitary sewer is at a grade of 1/8-inch per foot or more, if possible. In cases where basement or floor levels are lower than the ground elevation at the point of connection to the sewer, adequate precautions by installation of check valves or other backflow prevention devices to protect against flooding shall be provided by the owner. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted or pumped by an approved means and discharged to the building sewer at the expense of the owner.

(i) The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, or other activities in the construction of a building sewer line which have not been described above shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the town or to the procedures set forth in appropriate specifications of the ASTM and Water Pollution Control Federal Manual of Practice No. 9. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

(j) An installed building sewer line shall be gastight and watertight.

(k) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the town.

(l) No person shall make connection of roof downspouts, exterior foundation drains, area drains, basement drains or other sources of surface runoff or groundwater to a building sewer line or building drain which, in turn, is connected directly or indirectly to a public sanitary sewer.

(3) Inspection of connections. (a) The sewer connection and all building sewer lines from the building to the public sewer main line shall be inspected by the superintendent or his authorized representative before the underground portion is covered.

(b) The applicant for discharge shall notify the superintendent when the building sewer line is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the superintendent or his representative.

(4) Maintenance of building sewers. Each individual property owner or user of the POTW shall be entirely responsible for the maintenance of the building sewer lines located on private property to insure that the building sewer line is watertight. This maintenance will include repair or replacement of the building sewer lines as deemed necessary by the superintendent to meet specifications of the town. If, upon smoke testing or visual inspection by the superintendent roof downspout connections, exterior foundation drains, area drains, basement drains, building sewer leaks or other sources of rainwater, surface runoff or groundwater entry into the POTW sewer system are identified on building sewer lines on private property, the superintendent may take any of the following actions.

(a) Notify the property owner in writing of the nature of the problem(s) identified on the property owner's building sewer line and the specific steps required to bring the building sewer line within the requirements of this chapter. All steps necessary to comply with this chapter must be completed within 60 days from the date of the written notice and entirely at the expense of the property owner.

(b) Notify the property owner in writing of the nature of the problem(s) identified on the property owner's building sewer line and inform the property owner that the town will provide all labor, equipment and materials necessary to make the repairs required to bring the building sewer lines within the requirements of this chapter. The work on private property will be performed at the town's convenience and the cost of all materials and labor used will be charged to the property owner. The town will be responsible for bringing any excavations back to original grade, replacing topsoil and hand raking all disturbed areas; however, the property owner shall be responsible for final landscaping, including but not limited to seeding, fertilizing, watering, mulching, sodding and replacing any shrubbery or trees displaced or damaged by the town during the execution of the work. (Ord. #344, Aug. 1994)

18-207. General discharge prohibitions. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all users of the POTW whether or not the user is subject to national categorical pretreatment standards or any other national,

state, or local pretreatment standards or requirements. A user may not contribute the following substances to any POTW:

(1) Any liquids, solids or gases which, by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the POTW system (or at any point in the system), be more than five percent (5%) nor any single reading over ten percent (10%) of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, sulfides and any other substance which the town, the state or EPA has notified the user is a fire hazard or a hazard to the system.

(2) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to: grease, garbage with particles greater than one-half inch ($\frac{1}{2}$ ") in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

(3) Any wastewater having a pH less than 5.0 or more than 9.5, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.

(4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any POTW treatment plant process constitute a hazard to humans or animals; create a toxic effect in the receiving waters of the POTW, or exceed any limitation set forth in a categorical pretreatment standard.

(5) Any noxious or malodorous liquids, gases, or solids which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

(6) Any substance which may cause the POTW's effluent or any other product of the POTW, such as residues, sludges, or scums, to be unsuitable for reclamation and reuse, or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act, or any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management methods being used.

(7) Any substance which will cause the POTW to violate its NPDES permit or the receiving water quality standards.

(8) Any wastewater with objectionable color which causes discoloration of the POTW treatment plant effluent to the extent that the NPDES permit is violated, such as, but not limited to, dye wastes and vegetable tanning solutions.

(9) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature which will cause the wastewater temperature at the introduction into the POTW to exceed 40°C (104°F).

(10) Any pollutants, including oxygen-demanding pollutants, such as BOD, NH₃-N, and oil and grease, released at a flow rate and/or pollutant concentration which will cause interference to the POTW. In no case shall a discharge to the POTW have a flow rate or contain concentrations or quantities of pollutants that exceed for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration, quantities, or flow during normal operation.

(11) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

(12) Any wastewater which causes a hazard to human life or creates a public nuisance.

(13) Any wastewater containing fats, wax, grease, oil or other substances which may solidify or become viscous at temperatures between 0°C (32°F) and 40°C (104°F).

(14) Any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewer as are specifically designated as storm sewers, or to a natural outlet approved by the superintendent and the Tennessee Department of Environment and Conservation. Industrial cooling water or unpolluted process waters may be discharged on approval of the superintendent and the Tennessee Department of Environment and Conservation, to a storm sewer or natural outlet.

(15) When the superintendent determines that an industrial user(s) is contributing to the POTW, any of the above enumerated substances in such amounts as to interfere with the operation of the POTW, the superintendent shall advise the industrial user(s) of the impact of the contribution on the POTW and develop effluent limitation(s) for such industrial user to correct the interference with the POTW.

(16) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated herein, and which in the judgement of the superintendent, may have a deleterious effect upon the POTW, process,

equipment, or receiving waters, or which otherwise create a hazard to life constitute a public nuisance, the superintendent may:

- (a) Reject the wastes;
- (b) Require pretreatment to an acceptable condition for discharge to the POTW;
- (c) Require control over the quantities and rates of discharge; and/or
- (d) Require payment to cover the added cost of handling and treating the waste not covered by existing fees or sewer charges under the provisions of this chapter. If the superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the superintendent, and subject to the requirements of all applicable codes, ordinances, and laws. (Ord. #344, Aug. 1994, as amended by Ord. #355, Jan. 1995)

18-208. National categorical requirements. (1) National categorical pretreatment standards. National categorical pretreatment standards for new and existing sources set out in 40 CFR, Subchapter N, Parts 405 through 471 shall serve as the minimum requirements for all applicable industrial users. Upon the promulgation of national categorical pretreatment standards or a particular industrial subcategory, the national standard, if more stringent than limitations imposed under § 18-204(3) of this chapter, shall apply. The superintendent shall notify all affected industrial users of the applicable reporting requirements under 40 CFR, section 403.12.

(2) Modification of national categorical pretreatment standards. If the POTW system achieves consistent removal of pollutants limited by national pretreatment standards, the town may apply to the approval authority for modification of specific limits in the national pretreatment standards. "Consistent removal" shall mean reduction in the amount of a pollutant or alteration of the nature of the pollutant by the POTW system to a less toxic or harmless state in the effluent which is achieved by the system in 95 percent (95%) of the samples taken when measured according to the procedure set forth in Section 403.7 (a) (3) (ii) of Title 40 of the Code of Federal Regulations, Part 403 General Pretreatment Regulations for Existing and New Sources of Pollution, promulgated pursuant to the Act. The town may then modify pollutant discharge limits in the national pretreatment standards if the requirements contained in 40 CFR, Part 403, Section 403.7, are fulfilled and prior approval from the approval authority is obtained.

(3) Specific pollutant limitations. (a) Restrictions on wastewater strength. No person shall discharge wastewater containing in excess of:

<u>Pollutant</u>	<u>Daily Average* Maximum Concentration (mg/l)</u>	<u>Instantaneous Maximum Concentration (mg/l)</u>
Cadmium	0.055	0.110
Chromium (Total)	1.669	3.338
Copper	0.851	1.702
Cyanide	2.420	4.840
Lead	0.391	0.782
Mercury	0.001	0.002
Nickel	1.048	2.096
Total Phenolic Compounds	0.729	1.458
Silver	0.079	0.158
Zinc	2.592	5.184
Total Phthalates	2.4	4.8
1,1,1-Trichloroethane	6.6	13.2
Carbon Tetrachloride	0.52	1.04
Tetrachlorethylene	5.6	11.2
Trichloreoethylene	6.6	13.2
1,2 Transdichlorethylene	0.26	0.52
Methylene Chloride	12.5	25.0
Chloroform	2.16	4.32
Ethylbenzene	0.48	0.96
Naphthalene	0.16	0.32
Toluene	2.72	5.44
Benzene	0.30	0.60

*Based on 24-hour flow proportional composit samples.

Analyses for all pollutants listed herein shall be conducted in accordance with the requirements of 40 CFR Part 136 or equivalent methods approved by the United States Environmental Protection Agency.

(b) Criteria to protect the POTW treatment plant influent. The town shall monitor the POTW treatment plant for each parameter in the following table. Analyses for all pollutants listed herein shall be conducted in accordance with the requirements of 40 CFR Part 136 or equivalent methods approved by the United States Environmental Protection Agency. All industrial users shall be subject to the reporting and monitoring requirements set forth in § 18-210(3)(h), reporting requirements for permittee, and § 18-210(3)(j), inspection and sampling, as to these parameters. In the event that the influent at the POTW treatment plant reaches or exceeds the levels established by said table, the superintendent shall initiate technical studies to determine the cause of the influent violation, and shall recommend to the town such remedial

measures as are necessary, including but not limited to, recommending the establishment of new or revised pretreatment levels for these parameters. The superintendent shall also recommend changes to any of these criteria in the event the POTW effluent standards are changed or in the event that there are changes in any applicable law or regulation affecting same or in the event changes are needed for more effective operation of the POTW.

<u>Parameter</u>	Maximum Concentration in (24-Hour Flow) Proportional <u>Composite Sample</u> (mg/l)	Maximum Instantaneous Concentration <u>Grab Sample</u> (mg/l)
BOD	200	400
TSS	200	400
NH ₃ -N	20	40
Free Oil and Grease	100	200
Cadmium	0.012	0.024
Chromium	0.353	0.706
Copper	0.185	0.370
Cyanide	0.505	1.010
Lead	0.089	0.178
Mercury	0.0002	0.0004
Nickel	0.265	0.530
Total Phenolic Compounds	0.179	0.358
Silver	0.019	0.038
Zinc	0.588	1.176
Total Phthalates	0.122	0.244
1,1,1-Trichloroethane	0.33	0.66
Carbon Tetrachloride	0.026	0.052
Tetrachloroethylene	0.28	0.56
Trichloroethylene	0.33	0.66
1,2 Transdichloroethylene	0.013	0.025
Methylene Chloride	1.25	2.5
Chloroform	0.108	0.216
Ethylbenzene	0.024	0.047
Naphthalene	0.008	0.016
Toulene	0.136	0.273
Benzene	0.015	0.030

(4) Conventional pollutants. (a) BOD, TSS and NH₃-N. The POTW treatment plant was designed to accommodate specific waste load

concentrations and mass amounts of biochemical oxygen demand (BOD), total suspended solids (TSS), and ammonia nitrogen (NH₃-N). If an industrial user discharges concentrations of these pollutants in excess of the criteria to protect the POTW treatment plant influent listing in § 18-208(3)(b) of this chapter, added operation and maintenance costs will be incurred by the POTW. Therefore, any industrial user who discharges concentrations in excess of the criteria to protect the POTW treatment plant influent listing in § 18-208(3)(b) of this chapter for any of the conventional pollutants such as BOD, TSS, and/or NH₃-N will be subjects to a surcharge. The formula for this surcharge is listed in § 18-205(3) of this chapter. The town also reserves the right at any time to place specific mass or concentration limits for BOD, TSS and/or NH₃-N on the industrial user if the industrial user's discharge of the excessive strength wastewater causes the POTW treatment plant to violate its NPDES permit.

(b) Oil and grease. Oil and grease loadings were not taken into account in the design of the POTW treatment plant; however, oil and grease are regulated under this chapter as conventional pollutants.

(i) "Free" and "emulsified" oil and grease shall be differentiated based on the following procedure. One aliquot of sample shall be extracted with freon using EPA method 413.1, with the exception that the sample shall not be acidified prior to the extraction. The result of this analysis will be considered "free" oil and grease. A second aliquot of sample shall be prepared by adding sulfuric acid and heating until any emulsion breaks. The sample shall then be extracted with freon using EPA method 413.1. The result of this analysis will be considered "total" oil and grease. "Emulsified" oil and grease will be considered the arithmetic difference between "total" and "free" oil and grease.

(ii) If an industrial user discharges concentrations of "free" oil and grease in excess of the criteria to protect the POTW treatment plant influent listed in § 18-208(3)(b) of this chapter for "free" oil and grease, added operation and maintenance costs will be incurred by the POTW.

(iii) Therefore, any industrial user who discharges concentrations in excess of the criteria to protect the POTW treatment plant influent listed in § 18-208(3)(b) for "free" oil and grease will be subject to a surcharge. The formula for this surcharge is listed in § 18-209(5) of this chapter. The town also reserves the right to, at any time, place specific mass or concentration limits for "free" oil and grease on the industrial user if the industrial user's discharge of the excessive strength wastewater causes the POTW treatment plant to violate its NPDES permit.

(5) State requirements. State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this chapter.

(6) Town's right of revision. The town reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the POTW system if deemed necessary to comply with the objectives presented in § 18-201 of this chapter.

(7) Excessive discharge. No industrial user shall ever increase the use of process water or, in any way, attempt to dilute a discharge by adding wastewater that would not have been generated except for use as a dilutant as a partial or complete substitute for adequate pretreatment to achieve compliance with the limitations contained in the national categorical pretreatment standards, or in any other pollutant-specific limitation developed by the town or state.

(8) Accidental discharges. (a) Protection from accidental discharge. Each industrial user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this chapter. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the industrial user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the town for review, and shall be approved by the town before construction of the facility. No industrial user who commences contribution to the POTW after the effective date of this chapter shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the town. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the industrial user's facility as necessary to meet the requirements of this chapter.

(b) Notification of accidental discharge. In the case of an accidental discharge, it is the responsibility of the industrial user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions. The industrial user shall sample and analyze for the parameters thought to have been violated within 24 hours after discovery of the accidental discharge and report the results of the sample analysis to the town [40 CFR 403.12(g)].

(i) Written notice. Within five (5) days following an accidental discharge, the industrial user shall submit to the superintendent a detailed written report describing the cause of the discharge and the measures to be taken by the industrial user to prevent similar future occurrences. Such notification shall not relieve the industrial user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor

shall such notification relieve the industrial user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.

(ii) Notice to employees. A notice shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous accidental discharge. Employers shall insure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure. (Ord. #344, Aug. 1994, as amended by Ord. #381, Aug. 1996)

18-209. Recovery of cost. It is the purpose of this section to provide for the recovery of costs from users of the town's wastewater disposal system for the implementation of the program established herein. The applicable charges or fees shall be set forth in the town's schedule of charges and fees.

(1) Connection and/or inspection fee. No permit to connect to the town's POTW shall be granted unless the applicant first pays to the town a sewer connection charge or inspection fee as follows:

(a) For individual applicants for a residential or business connection, the minimum fee shall be seven hundred dollars (\$700.00). Should the actual cost to the town for said connection exceed the minimum charge, there shall be added to this minimum fee a sum representing the actual cost of labor and materials in excess of seven hundred dollars (\$700.00).

(b) For contractor/developer applicants who are engaged in construction of sub-divisions or other development, and who will bear all cost of installation of all sewer mains, manholes, lateral lines and all other supplies and labor to install a complete sewer collection system within the construction area to include connecting the individual structures to said system, there shall be an inspection fee of one hundred dollars (\$100.00) for each structure or unit connected.

(2) Sewer service charges. Sewer service charges (or user fees) shall be collected from the person(s) or firm(s) billed for public water service to any building which is accessible to the public sanitary sewer. Accessible shall be deemed to mean a public sewer is within five hundred feet (500') of the building drain of said building. The sewer charge shall be based in the monthly volume of water metered to the premise; shall be billed on a monthly basis; shall be included with the monthly water bill and with charges collected as a single unit. No municipal employee shall accept payment of the water service charges from any customer without receiving at the same time payment of all sewer services charges owed by such customer. Water and sewer services may be discontinued for nonpayment of the combined bills. Effective with the January 2010 billing, the following sewer service charges based on gallonage of water metered to the premise shall apply:

(a) Sewer service charge - inside corporate limits:

<u>Usage</u>	<u>Rate</u>
First 2,000 gallons	\$13.70 (minimum charge)
Over 2,100 gallons	\$3.52 per 1,000 gallons

(b) Sewer service charge - outside corporate limits:

<u>Usage</u>	<u>Rate</u>
First 2,000 gallons	\$17.13 (minimum charge)
Over 2,100 gallons (metered in 100 gallon units)	\$4.36 per 1,000 gallons

(3) BOD test fee. For providing laboratory services for the conduct of BOD test for adjacent communities or utility districts, there shall be a flat fee of \$50.00 per lagoon or sample tested.

(4) Charges and fees. The town may adopt charges and fees which may include the following fees which relate solely to the matters covered by this chapter and are separate from all other fees chargeable by the town.

(a) Fees for reimbursement of costs of setting up and operating the town's pretreatment program;

(b) Fees for monitoring, inspections, and surveillance procedures;

(c) Fees for reviewing accidental discharge procedures and construction;

(d) Fees for permit applications;

(e) Fees for filing appeals;

(f) Fees for consistent removal (by the town) of pollutants otherwise subject to federal pretreatment standards; and

(g) Other fees as the town may deem necessary to carry out the requirements contained herein.

(5) Surcharge formula. If a user discharges in excess of the guidelines for conventional pollutants, as described in §§ 18-208(4) and 18-208(5), it will cause added operation and maintenance costs to be incurred. Therefore, any user who discharges in excess of the limits for any of these parameters will be subject to a surcharge. The formula for this surcharge is listed below. The town also reserves the right to, at any time, place firm limits on the user if the user's discharge of the excessive strength of wastewater causes the wastewater treatment plant to violate its NPDES permit.

$$\begin{array}{l}
 \text{Base Sewer} \\
 \text{Bill for} \quad \times \\
 \text{Monthly Usage}
 \end{array}
 \times
 \begin{array}{l}
 \text{Actual Monthly Average of} \\
 \text{Parameter Concentration (mg/l)} \\
 \text{24-Hour Flow Proportional} \\
 \text{Composite Sample Criteria to} \\
 \text{Protect the POTW Treatment} \\
 \text{Plant Influent}
 \end{array}
 =
 \begin{array}{l}
 \text{Base Sewer} \\
 \text{Bill for} \\
 \text{Monthly Usage}
 \end{array}$$

(Ord. #344, Aug. 1994, as amended by Ord. #377, June 1996, Ord. #381, Aug. 1996, Ord. #417, June 1999, Ord. #495, Sept. 2006, and Ord. #519, Oct. 2009)

18-210. Administration. (1) Wastewater discharge permits. There shall be two classes of building sewer permits; one for residential and commercial users, and one for service to industrial users. In either case, the owner or his agent shall make application on a special form furnished by the town. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the superintendent. A permit and inspection fee of ten dollars (\$10.00) for industrial users shall be paid to the town at the time the application is filed.

(2) Residential, commercial and institutional wastewater discharge permits. All users or prospective users which generate domestic wastewater shall make application to the superintendent for written authorization to discharge to the POTW system. Applications shall be required from all new dischargers as well as for any existing discharger desiring additional service. Connection to the POTW shall not be made until the application is received and approved by the superintendent, the building sewer is installed in accordance with §§ 18-204 and 18-205 of this chapter, and an inspection has been performed by the superintendent or his representative.

(a) The receipt by the town of a prospective customer's application for service shall not obligate the town to render the service. If the service applied for cannot be supplied in accordance with this chapter and the town's rules and regulations and general practice, the connection charge will be refunded in full, and there shall be no liability of the town to the applicant for such service, except that conditional waivers for additional services may be granted by the superintendent for interim periods if compliance may be assured within a reasonable period of time.

(3) Industrial wastewater discharge permits. (a) General. All significant industrial users proposing to connect to or to contribute to the POTW shall obtain an industrial wastewater discharge permit before connecting to or contributing to the POTW. All existing significant industrial users connected to or contributing to the POTW shall obtain an industrial wastewater discharge permit within 180 days after the effective date of this chapter.

(b) Certification. All applications, reports, etc., submitted by an industrial user must include the certification that is found at 40 CFR 403.6 (a) (2) (ii) and must be signed by an authorized representative of the industrial user pursuant to 40 CFR 403.12(1).

(c) Permit application. Industrial users required to obtain an industrial wastewater discharge permit shall complete and file with the town an application in the form prescribed by the town. Existing industrial users shall apply for an industrial wastewater discharge permit within 30 days after the effective date of this chapter, and proposed new industrial users shall apply at least 90 days prior to connecting to or contributing to the POTW. In support of the application, the industrial user shall submit, in units and terms appropriate for evaluation, the following information:

(i) Name, address, and location, (if different from the address);

(ii) SIC number according to the Standard Industrial Classification Manual, Office of Management and Budget, 1987, as amended;

(iii) Wastewater constituents and characteristics including but not limited to those mentioned in § 18-208 of this chapter as determined by a reliable analytical laboratory; sampling and analyses shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, as amended;

(iv) Time and duration of discharge;

(v) Average daily and 30-minute peak wastewater flow rates, including daily, monthly and seasonal variations, if any;

(vi) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location and elevation;

(vii) Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged;

(viii) Where known, the nature and concentration of any pollutants in the discharge which are limited by any city, state, or national pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the industrial user to meet applicable pretreatment standards; and

(ix) If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the industrial user will provide such additional pretreatment. The completion date in this schedule shall not be

later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:

(A) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the industrial user to meet the applicable pretreatment standards (eq., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

(B) No increment referred to in (ix)(A) of this sub-section shall exceed 9 months.

(C) Not later than 14 days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the superintendent including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the industrial user to return the construction to the schedule established. In no event shall more than 9 months elapse between such progress reports to the superintendent.

(x) Each product produced by type, amount, process or processes and rate of production;

(xi) Type and amount of raw materials processed (average and maximum per day);

(xii) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;

(xiii) Any other information as may be deemed by the town to be necessary to evaluate the permit application;

(xiv) The town will evaluate the data furnished by the industrial user and may require additional information. After evaluation and acceptance of the data furnished, the town may issue an industrial wastewater discharge permit subject to terms and conditions provided herein.

(d) Permit modifications. Within 9 months of the promulgation of national categorical pretreatment standard, the industrial wastewater discharge permit of industrial users subject to such standards shall be revised to require compliance with such standards within the time frame prescribed by such standards. Where an industrial user, subject to a

national categorical pretreatment standard, has not previously submitted an application for an industrial wastewater discharge permit as required by § 18-210(3)(c), the industrial user shall apply for an industrial wastewater discharge permit within 180 days after the promulgation of an applicable national categorical pretreatment standard the information required by § 18-210(3)(c)(viii) and (ix).

(e) Permit conditions. Industrial wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations and industrial user charges and fees established by the town. Permits may contain the following:

(i) The unit charge or schedule of user charges and fees for the wastewater to be discharged to the POTW;

(ii) Limits on the average and maximum wastewater constituents and characteristics;

(iii) Limits on the average and maximum rate and time of discharge or requirements for flow regulations and equalization;

(iv) Requirements for installation and maintenance of inspection and sampling facilities;

(v) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests and reporting schedule;

(vi) Compliance schedules;

(vii) Requirements for submission of technical reports or discharge reports as required by this chapter;

(viii) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the town, and affording town access thereto;

(ix) Requirements for notification of the town of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the POTW;

(x) Requirements for notification of excessive discharges such as described in § 18-208(8);

(xi) Requirement to immediately report any noncompliance to the town and to immediately resample for parameter out of compliance in accordance with 40 CFR 403.12(g);

(xii) Other conditions as deemed appropriate by the town to ensure compliance with this chapter.

(f) Permit duration. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The industrial user shall apply for permit re-issuance a minimum of 180 days prior to the expiration of the industrial user's existing permit. The terms and conditions of the permit may be subject to modification by the town

during the term of the permit as limitations or requirements as identified in this section are modified or other just cause exists. The industrial user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include reasonable time schedule for compliance.

(g) Permit transfer. Industrial wastewater discharge permits are issued to a specific industrial user for a specific operation. An industrial wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new industrial user, different premises, or a new or changed operation without the approval of the town. Any succeeding owner or industrial user shall also comply with the terms and conditions of the existing permit.

(h) Reporting requirements for permittee. (i) Compliance date report. Within 90 days following the date for final compliance with applicable pretreatment standards, or in the case of a new source, following commencement of the introduction of wastewater into the POTW, any industrial user subject to pretreatment standards and requirements shall submit to the superintendent a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the industrial user's facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the industrial user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user, and certified to by a qualified professional engineer.

(ii) Periodic compliance reports. (A) Any industrial user subject to a pretreatment standard after the compliance date of such pretreatment standard, or in the case of a new source, after commencement of the discharge into the POTW, shall submit to the superintendent during the months of June and December, unless required more frequently in the pretreatment standard or by the superintendent, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of average and maximum daily flows which during the reporting period exceeded the average daily flow. The flow on the date of the sampling also needs

to be reported. At the discretion of the superintendent and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the superintendent may agree to alter the months during which the above reports are to be submitted. All parameters listed on the industrial wastewater discharge permit must be sampled for in accordance with 40 CFR Part 136. All reports submitted by the industrial user must include the certification that is found at 40 CFR 403.6 (a)(2)(ii) and must bear the signature of an authorized representative of the industrial user pursuant to 40 CFR 403.12(1). All analyses must be performed by a certified laboratory. A chain of custody form must be submitted with all reports.

(B) The superintendent may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations is appropriate. In such cases, the report required by subparagraph (ii) of this paragraph shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the industrial user. These reports shall contain the results of sampling and analyses of the discharge, including the flow and the nature and concentration, or production and mass where requested by the superintendent, of pollutants contained therein which are limited by the applicable pretreatment standard.

(C) All analyses shall be performed in accordance with procedures established by the administrator pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, and amendments thereto. Sampling shall be performed in accordance with the techniques approved by the administrator.

(i) Monitoring facilities. The town may require to be provided and operated at the industrial user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. Monitoring facilities should normally be situated on the industrial user's premises, but the town may, when such a location would be impractical or cause undue hardship on the industrial user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

(i) There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring

equipment shall be maintained at all times in a safe and proper operating condition at the expense of the industrial user.

(ii) Whether constructed on public or private property, sampling and monitoring facilities shall be provided in accordance with the town's requirements and all applicable local construction standards and specifications. Where required by the town, construction of monitoring facilities shall be complete within 90 days following written notification by the town.

(j) Inspection and sampling. The town shall inspect the facilities of any industrial user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the town or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination, or in the performance of an of their duties. The town, approval authority and U.S. EPA shall have the right to set up on the industrial user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where an industrial user has security measures in force which would require proper identification and clearance before entry into their premises, the industrial user shall make necessary arrangements with their security guards so that, upon presentation of suitable identification, personnel from the town, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities, under 40 CFR 403.12.

(k) Pretreatment. Industrial users shall provide necessary wastewater treatment as required to comply with this chapter and shall achieve compliance with all national categorical pretreatment standards within the time limitations as specified by the national pretreatment regulations. Any facilities required to pretreat wastewater to a level acceptable to the town shall be provided, operated, and maintained at the industrial user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the town before construction of the facility. The review of such plans and operating procedures will in no way relieve the industrial user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the town under the provisions of this chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the town prior to the industrial user's initiation of the changes.

(i) The town shall annually publish in the local newspaper a list of the industrial users which were not in compliance with any pretreatment requirements or standards at least once during the 12 previous months.

(ii) All records relating to compliance with pretreatment standards shall be made available to officials of the U.S. EPA or approval authority upon request.

(l) Confidential information. Information and data on an industrial user obtained from reports, questionnaires, permit applications, permits and monitoring programs, and from inspections shall be available to the public or other governmental agency without restriction unless the industrial user specifically requests and is able to demonstrate to the satisfaction of the town that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the industrial user.

(i) When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this chapter, the national pollutant discharge elimination system (NPDES) permit, and/or the state pretreatment program; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

(ii) Information accepted by the town as confidential shall not be transmitted to any governmental agency or to the general public by the town until and unless a ten-day notification is given to the industrial user. (Ord. #344, Aug. 1994)

18-211. Unlawful to damage sewage works. No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct. (Ord. #344, Aug. 1994)

18-212. Penalties. (1) Any person found to be violating any provision of this chapter except §§ 18-207, 18-208, 18-210(3) and 18-211 shall be served by the town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(2) Any person who shall violate § 18-211 or who shall continue any other violation beyond the time limit provided for in the notice required above shall be guilty of a misdemeanor, and on conviction thereof shall be subject to the penalties provided for in the general penalty clause for this code of ordinances.

(3) Any industrial user who shall violate §§ 18-207, 18-208, or 18-210(3) shall be subject to actions prescribed by § 18-214, below.

(4) Any person violating any of the provisions of this chapter shall become liable to the town for any expense, loss, or damage occasioned the town by reason of such violation.

(5) A hearing board shall be appointed as needed for arbitration of differences between the superintendent and sewer users on matters concerning interpretation and execution of the provisions of this chapter. The cost of the arbitration will be divided equally between the town and the sewer user.

(6) Such board shall be composed of the town council, the town attorney, and the town's consulting engineer. The sewer user may have his own legal council and/or engineer present at his own expense. (Ord. #344, Aug. 1994)

18-213. Powers and authority of inspectors. (1) The superintendent and other duly authorized employees or agents of the town bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this chapter. The superintendent or his representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

(2) While performing the necessary work on private properties referred to in the preceding subsection, the superintendent or duly authorized employees or agents of the town shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the town employees and the town shall indemnify the company against loss or damage to its property by town employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required by this chapter.

(3) The superintendent and other duly authorized employees or agents of the town bearing proper credentials and identification shall be permitted to enter all private properties through which the town holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entries and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(4) The town council is authorized to make such alterations and exceptions as may become necessary. No industrial liquid and waste will be accepted within the sewer system without approval of the town, the Carroll

County Health Department, and/or the Tennessee Department of Environment and Conservation. (Ord. #344, Aug. 1994)

18-214. Enforcement - significant industrial users.

(1) Administrative enforcement remedies. (a) All administration enforcement actions taken against a significant industrial user, including procedures, orders, and complaints, shall be in accordance with the Tennessee Water Quality Control Act of 1977, specifically Tennessee Code Annotated, § 69-3-123.

(b) Notification of violation. Whenever the town finds that any significant industrial user has violated or is violating this chapter, an industrial wastewater discharge permit or order issued hereunder, the town may serve upon said significant industrial user written notice of the violation. Within 10 days of the receipt date of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the town. Submission of this plan in no way relieves the significant industrial user of liability for any violations occurring before or after receipt of the notice of violation.

(c) Consent orders. The town is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the significant industrial user responsible for the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as compliance orders issued pursuant to § 18-214(1)(e), below.

(d) Show cause hearing. The town may order any significant industrial user which causes or contributes to violation of this chapter, industrial wastewater discharge permit, or order issued hereunder, to show cause before the town why a proposed enforcement action should not be taken. Hearings shall be conducted in accordance with the provisions of Tennessee Code Annotated, § 69-3-124. Notice shall be served on the significant industrial user specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the significant industrial user show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least 10 days prior to the hearing. Such notice may be served on any authorized representative of the significant industrial user. Whether or not a duly notified significant industrial user appears as noticed, immediate enforcement action may be pursued.

(e) Compliance order. When the town finds that a significant industrial user has violated or continues to violate this chapter, an industrial wastewater discharge permit or order issued hereunder, the town may issue an order to the significant industrial user responsible for

the discharge directing that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices or other related appurtenances have been installed and be properly operated. Compliance orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring and management practices. A compliance order may also contain a fine for noncompliance with the chapter or an industrial wastewater discharge permit.

(f) Cease and desist orders. When the town finds that a significant industrial user has violated or continues to violate this chapter, any industrial wastewater discharge permit or order issued hereunder, the town may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

(i) Comply forthwith.

(ii) Take such appropriate remedial or preventative action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

(g) Administrative fines (civil penalties). Notwithstanding any other section of this chapter, any significant industrial user who is found to have violated any provision of this chapter, industrial wastewater discharge permits and orders issued hereunder, may be fined in an amount not to exceed ten thousand dollars (\$10,000.00) per violation in accordance with the provisions of Tennessee Code Annotated, §§ 69-3-125, 126, 128, and 129. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. Such assessments may be added to the significant industrial user's next scheduled sewer service charge and the town shall have such other collection remedies as are available to collect other service charges. Unpaid charges, fines and penalties shall constitute a lien against the individual significant industrial user's property. Significant industrial users desiring to dispute such fines must file a written request with the town recorder for the town to reconsider the fine within 30 days of being notified of the fine. Where the town believes a request has merit, the town shall convene a hearing on the matter within 15 days of receiving the request from the significant industrial user and a hearing will be held before the mayor and councilmembers in accordance with the provisions of Tennessee Code Annotated, § 69-3-124.

(h) Emergency suspensions. (i) The town may suspend the wastewater treatment service and/or wastewater discharge permit of a significant industrial user whenever such suspension is necessary in order to stop an actual or threatened discharge

presenting or causing an imminent or substantial endangerment to the health or welfare of persons, the POTW, or the environment.

(ii) Any significant industrial user notified of a suspension of wastewater treatment service and/or the industrial wastewater discharge permit shall immediately stop or eliminate its contribution of process wastewater to the POTW. In the event of a significant industrial user's failure to immediately comply voluntarily with the suspension order, the town shall take such steps as deemed necessary, including immediate severance of the building sewer connection to the POTW, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The town shall allow the significant industrial user to recommence its discharge when the endangerment has passed unless the termination proceedings set forth in § 18-214(1)(i) are initiated against the significant industrial user.

(iii) A significant industrial user who is responsible, in whole or in part, for imminent endangerment shall submit to the town prior to the date of the hearing the described in § 18-214(1)(d) a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence.

(i) Termination of permit. Any significant industrial user who violates the following conditions of this chapter or an industrial wastewater discharge permit or order, or any applicable state or federal law, is subject to permit termination:

- (i) Violation of permit conditions;
- (ii) Failure to accurately report the wastewater constituents and characteristics of its discharge;
- (iii) Failure to report significant changes in operations or wastewater constituents and characteristics;
- (iv) Refusal of reasonable access to the significant industrial user's premises for the purpose of inspection, monitoring or sampling.

(j) Noncompliant significant industrial users will be notified of the proposed termination of their industrial wastewater discharge permit and be offered an opportunity to show cause under § 18-207(1)(d) of this chapter why the proposed action should not be taken.

(2) Judicial remedies. (a) General. If any person discharges sewage, industrial wastes, or other wastes into the POTW contrary to the provisions of this chapter or any order or industrial wastewater discharge permit issued hereunder, the town, through the town attorney, may commence an action for appropriate legal and/or equitable relief in the Chancery Court of Carroll County. Any judicial proceedings and relief

shall be in accordance with the procedures of Tennessee Code Annotated, § 69-3-127.

(b) Injunctive relief. Whenever a significant industrial user has violated or continues to violate the provisions of this chapter or an industrial wastewater discharge permit or order issued hereunder, the town, through counsel may petition the court for the issuance of a temporary or permanent injunction or both (as may be appropriate) which restrains or compels the activities on the part of the significant industrial user.

(3) Affirmative defenses. (a) Treatment upsets. (i) Any significant industrial user which experiences an upset in operations that places it in a temporary state of noncompliance, which is not the result of operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation, shall inform the town thereof immediately upon becoming aware of the upset. Where such information is given orally, a written report thereof shall be filed by the significant industrial user within five days. The report shall contain:

(A) A description of the upset, its cause(s), and impact on the discharger's compliance status.

(B) The duration of noncompliance, including exact dates and times of noncompliance, and, if the noncompliance is continuing, the time by which compliance is reasonably expected to be restored.

(C) All steps taken or planned to reduce, eliminate and prevent recurrence of such an upset.

(ii) A significant industrial user which complies with the notification provisions of this section in a timely manner shall have an affirmative defense to any enforcement action brought by the town for any noncompliance with this chapter, or an order or industrial wastewater discharge permit issued hereunder to the significant industrial user, which arises out of violations attributable and alleged to have occurred during the period of the documented and verified upset.

(b) Treatment bypasses. (i) A bypass of the treatment system is prohibited unless all of the following conditions are met:

(A) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There was no feasible alternative to the bypass, including the use of auxiliary treatment or retention of the wastewater; and

(C) The significant industrial user properly notified the town as required by § 18-214(3)(b)(ii) below.

(ii) A significant industrial user must provide immediate notice to the town upon discovery of an unanticipated bypass. If necessary, the town may require the significant industrial user to submit a written report explaining the cause(s), nature and duration of the bypass, and the steps being taken to prevent its recurrence.

(iii) A significant industrial user may allow a bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it is for essential maintenance to ensure efficient operation of the pretreatment system. Significant industrial users anticipating a bypass must submit notice to the town at least 10 days in advance. The town may only approve the anticipated bypass if the circumstance satisfy the requirements set forth in § 18-214(3)(b)(i). (Ord. #344, Aug. 1994)

18-215. Policy and procedure of sewer grinder pumps. The use of grinder pumps has been endorsed by the Town of Huntingdon as a secondary alternative gravity-flow under the following criteria:

(1) The Director of the Huntingdon Utility Department shall determine the instances where grinder pumps will be approved as an alternative to the gravity-flow system for existing and new residential development.

(2) The town will specify and have the units installed as well as provide routine inspections of the grinder pump unit. The town will also provide maintenance of the units when needed, if this maintenance is created by normal wear and deterioration of the grinder pump unit. Repair and replacement of the grinder pumps due to the failure of the homeowner to abide by the conditions set forth in manufacturer's specifications or accepted standards for proper use of these units will result in the homeowners' obligation to repair or replace the grinder pump unit at their own expense.

(3) Existing development may be changed from gravity-flow sewer to the use of a grinder pump as a result of persistent infiltration or poor flow problems based on the assessment of the Huntingdon Utility Director. The cost of these grinder pump units will be paid by the Town of Huntingdon based on the fact that the initial sewer tap fee has been previously paid. The associated electrical installation and operation expenses for the grinder pump unit will be the responsibility of the property owner. Property owners constructing their own personal house must provide the electrical equipment, but the tap fee will negate the cost of the grinder pump unit. Property owners will be limited to this exemption for one home per decade in order to discourage spec building development, which might be used to circumvent the intent of the subdivision provision below.

(4) For new residential subdivision development, the developer or subsequent contractor will pay for electrical equipment needed as specified by

the Town of Huntingdon. The developer will pay for the initial cost of grinder pump unit and the service lines to the property. The costs of the electrical service will be assumed by the property owner upon operation.

(5) The development of a major and minor subdivision will result in a one hundred dollar (\$100.00) surcharge per lot. This surcharge will be used to defray the eventual expense of replacing these grinder pump units, which have a seven to ten year life span. (Ord. #391, July 1997)

CHAPTER 3

EXTENSION OF SEWER SERVICES OUTSIDE CORPORATE LIMITS

SECTION

- 18-301. Extension policy for subdivisions.
- 18-302. Extension policy for individuals.
- 18-303. Approval by planning commission and town engineers.
- 18-304. Limitations and cost.
- 18-305. Prohibited connections.

18-301. Extension policy for subdivisions. Any individual, group of individuals, firm, corporation, etc., proposing to construct or develop a subdivision located outside the corporate limits of the Town of Huntingdon, but which is contiguous to or near the existing corporate limits, and who desire to obtain extension of the town's public sewer services to said subdivision, shall apply in writing to the Council of the Town of Huntingdon detailing the services desired. The request shall be accompanied by a petition to the council for annexation of the territory comprising the subdivision upon completion of construction. Should the developed area not be contiguous to the corporate limits, all owners of real property lying between the developed area and the corporate limits shall be parties to said petition. Such application shall contain a basic plot plan and details of the proposed construction. When, and if, tentative approval is granted by the council, the developers shall be referred to the Huntingdon Municipal Planning Commission for review and approval of all documents as required by the Commission's Subdivision Regulations. Upon approval of the Huntingdon Municipal Planning Commission all documents shall be referred to the town engineers for review and approval as to the feasibility of connecting the proposed area to the town sanitary sewer system. (Ord. #367, Sept. 1995)

18-302. Extension policy for individuals. When a group of individual property owners in a developed area located outside the corporate limits of the Town of Huntingdon collectively desire for the town to extend public sewer services to their territory and where the combined territories of such owners would be contiguous to the existing corporate limits, said group shall apply in writing to said council requesting such services and petitioning the council for annexation. Should such request be approved, the extension of all municipal services, including sewer, shall, upon completion of the annexation, be provided in a manner consistent with the published plan of services for said territory, and the prevailing policies of the town. (Ord. #367, Sept. 1995)

18-303. Approval of planning commission and town engineer required. As pertains to extension of public sewer services to proposed

subdivision construction sites, when, and if, such a request is given tentative approval by the town council, the contractor or developers shall be required to submit to the Huntingdon Municipal Planning Commission for its review and approval all plans, plats and other documents as required by the town's subdivision regulations. Upon approval of the Huntingdon Municipal Planning Commission all documents shall be referred to the town engineers for review and approval as to the feasibility of connecting the proposed area to the sanitary sewer system. No implementing action shall be taken until such approval has been given. (Ord. #367, Sept. 1995)

18-304. Limitations and costs. Such extension of municipal services shall be in the best interest of the Town of Huntingdon; shall be provided in manner consistent with prevailing policies; shall not impose additional financial burdens on its taxpayers or rate payers, and are authorized pursuant to strict standards established by the town. Public facilities of the Town of Huntingdon will not be connected to such developments until such time as the developer has complied with all requirements of the Town of Huntingdon or the Huntingdon Municipal Planning Commission as regards construction of subdivisions. Developers or contractors shall bear all cost associated with the construction or installation of on-site public water and sewer facilities, and pay all fees and charges as may be required by existing regulations and policies of the town. (Ord. #367, Sept. 1995)

18-305. Prohibited connections. There shall be no connections made to the town's sewer system without properly being also connected to the town's public water system. (Ord. #367, Sept. 1995)

CHAPTER 4

CROSS CONNECTION CONTROL

SECTION

18-401. Definitions.

18-402. Construction and operation subject to approval of the Tennessee Department of Environment and Conservation; under supervision of superintendent.

18-403. Statement required.

18-404. Fees.

18-405. Penalty; discontinuance of water supply.

18-401. Definitions. The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

(1) "Cross-connection" shall mean any physical arrangement whereby a public water supply is connected, directly or indirectly, with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture, or other waste or liquid of unknown or unsafe quality which may be capable of imparting contamination to the public water supply as a result of backflow. Bypass arrangements, jumper connections, removable sections, swivel or changeover devices through which or because of which, backflow could occur are considered to be cross-connections.

(2) "Public water supply" shall mean the Huntingdon waterworks system, which furnishes water to the town for general use and which is recognized at the public water supply by the Tennessee Department of Environment and Conservation.

(3) "Department" shall mean the Huntingdon Public Utilities.

(4) "Potable water" shall mean water which meets the criteria of the Tennessee Department of Environment and Conservation and the Environmental Protection Agency for human consumption.

(5) "Backflow" shall mean the reversal of the intended direction of flow in a piping system.

(6) "Backsiphonage" shall mean the flow of water or other liquids, mixtures or substances into the potable water system from any source other than its intended source, caused by the reduction of pressure in the potable water system.

(7) "Auxiliary intake" shall mean any water supply, on or available to a premises, other than that directly supplied by the water system.

(8) "By-pass" shall mean any system of piping or other arrangement whereby water from the public water system can be diverted around a backflow prevention device.

(9) "Air gap" shall mean a vertical, physical separation between a water supply and the overflow rim of a non-pressurized receiving vessel. An

approved air gap separation must be at twice the inside diameter of the supply line, but not less than two (2) inches. Where a discharge line serves as receiver, the air gap separation shall be at least twice the diameter of the discharge line, but not less than two (2) inches.

(10) "Reduced pressure principle backflow prevention device" shall mean an assembly consisting of two independently operating approved check valves with an automatically operating differential relief valve located between the two check valves, tightly closing shut-off valves on each side of the check valves plus properly located test cocks for the testing of the check valves and the relief valve.

(11) "Double check valve assembly" shall mean an assembly of two independently operating spring loaded check valves with tightly closing shut-off valves on each side of the check valves, plus properly located test cocks for testing each check valve.

(12) "Double check detector assembly" shall mean an assembly of two independently operating spring loaded check valves with a water meter (protected by another check valve or a reduced pressure backflow prevention device, depending upon degree of hazard) connected across the check valves, and with tightly closing shut-off valves on each side of the check valves, plus properly located test cocks for testing each part of the assembly.

(13) "Atmospheric vacuum breaker" shall mean a device which prevents backsiphonage by creating an atmospheric vent when there is either a negative pressure or sub-atmospheric pressure in the water system.

(14) "Pressure vacuum breaker" shall mean an assembly consisting of a device containing one or two independently operating spring loaded check valves and an independently operating spring loaded air inlet valve located on the discharge side of the check valve(s), with tightly closing shut-off valves and properly located test cocks for the testing of the check valves and relief valve.

(15) "Approved" shall mean that the device or method is accepted by the Tennessee Department of Environment and Conservation and the superintendent as meeting specifications suitable for the intended purpose.

(16) "Superintendent" shall mean the superintendent of Huntingdon Public Utilities Department of the Town of Huntingdon or his authorized deputy, agent or representative.

(17) "Fire protection systems:"

(a) Class 1 shall be those with direct connections from the public water mains only; no pumps, tanks, or reservoirs; no physical connection from other water supplies; no antifreeze to other additives of any kind; all sprinkler drains discharging to the atmosphere, dry wells or other safe outlets.

(b) Class 2 shall be the same as Class 1 except that booster pumps may be installed in the connections from the street mains.

(c) Class 3 shall be those with direct connection from the public water supply mains, and having storage tanks filled from the public water system, with the water maintained in potable condition.

(d) Class 4 shall be those with direct connection from the public water mains and having an auxiliary water supply dedicated to fire protection and available to the premises.

(e) Class 5 shall be those with direct connection from the water mains and interconnected with auxiliary supplies, such as pumps taking suction from reservoirs exposed to contamination, or from rivers, ponds, wells, or industrial water systems; or where antifreeze or other additives are used.

(f) Class 6 shall be those with combined industrial and fire protection systems supplied from the public water mains only, with or without gravity storage or pump suction tanks. (Ord. #380, Aug. 1996)

18-402. Construction and operation subject to approval of the Tennessee Department of Environment and Conservation; under supervision of superintendent. (1) Compliance with T.C.A. The Public Utilities Department of the Town of Huntingdon is to comply with Tennessee Code Annotated, §§ 68-221-701 through 68-221-719, as well as the Rules and Regulations for Public Water Systems, legally adopted in accordance with this code, which pertain to cross-connections, auxiliary intakes, bypasses, and interconnections, and establish an effective on-going program to control these undesirable water uses.

(2) Regulations. (a) It shall be unlawful for any person to cause a cross-connection to be made; or allow one to exist for any purpose whatsoever unless the construction and operation of same have been approved by the Tennessee Department of Environment and Conservation, and the operation of such cross-connection, auxiliary intake, bypass or interconnection is at all times under the direction of the Superintendent of the Huntingdon Public Utilities Department.

(b) If, in the judgement of the superintendent or his designated agent, an approved backflow prevention device is required at the town's water service connection to the customers premises, or at points within the premises, to protect the potable water supply, the superintendent shall compel the installation and maintenance of said device at the owner's expense.

(c) For new installations, the department shall inspect the site and/or review plans on order to determine the type of backflow prevention device, if any, that will be required, and notify the owners in writing of the required device. All required devices must be installed and operable prior to initiation of water service.

(d) For existing premises, the department shall perform evaluations and inspections and shall require correction of violations in accordance with subsections (a) through (d).

(3) Plumbing permit required. No installation, alteration or change shall be made of any backflow prevention device connected to the public water supply for water supply, fire protection, or any other purpose without first contacting the Superintendent of the Huntingdon Public Utilities. At this time no permit is required.

(4) Inspections. The superintendent shall inspect all properties served by the public water supply where cross-connections with the public water supply are deemed possible. The frequency of inspections and reinspection based on potential health hazards involved shall be established by the superintendent in accordance with the guidelines acceptable to Tennessee Department of Environment and Conservation. The superintendent or authorized representative shall have the right to enter at any reasonable time any property served by a connection to Huntingdon Public Utilities Water System for the purpose of inspecting the piping system therein for cross-connection, auxiliary intakes, bypasses, or interconnections, or for the testing of backflow prevention devices. On request, the owner, lessee, or occupant of any property so served shall furnish any pertinent information regarding the piping system on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connections.

(5) Corrections of violations. (a) Any person found to have cross-connections, auxiliary intakes, bypasses, or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with this chapter. After a thorough investigation of existing conditions and an appraisal of time required to complete the work, the amount of time shall be designated by the superintendent, but in no case shall the time for correction exceed 90 days.

(b) Where cross-connections, auxiliary intakes, bypasses, or interconnections are found that constitute an extreme hazard of immediate concern of contaminating the public water system, the superintendent of the water system shall require that immediate corrective action be taken to eliminate the threat to the public water system.

(c) Expeditious steps shall be taken to disconnect the public water system from the on-site piping system unless the imminent hazard is corrected immediately, subject to the right to a due process hearing upon timely request. This time allowed for preparation for a due process hearing shall be in relationship with the risk of hazard to the public; and may follow disconnection when the risk of public health and safety in the opinion of the superintendent warrants disconnection prior to a due process hearing.

(d) The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and the Tennessee Code Annotated, § 68-221-711, within the time limits set by The Huntingdon Public Utilities, shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the superintendent shall give the customer legal notification that water service is to be discontinued, and physically separate the public water system from the customer on site piping system in such a manner that the two systems cannot again be connected by an unauthorized person, subject to the right of a due process hearing upon timely request. The due process hearing may follow disconnection when the risk of public health and safety in the opinion of the superintendent warrant disconnection prior to a due process hearing.

(6) Required protective device. (a) Where the nature of use of the water supplied a premises by the water system is such that it is deemed:

(i) Impractical to provide an effective air-gap separation;

(ii) The owner and/or occupant of the premises cannot, or is not willing, to demonstrate to the superintendent or his designated representative that the water use and protective features of the plumbing are such as to pose no threat to the safety or potability of the water;

(iii) The nature and mode of operation within a premises are such that frequent alterations are made to the plumbing; or

(iv) The nature of the premises is such that the use of the structure may change to a use wherein backflow prevention is required;

(v) There is a likelihood that protective measures may be subverted, altered, or disconnected; or

(vi) The plumbing from a private well enters the building served by the public water supply, then the superintendent shall require the use of an approved protective device on the service line serving the premises to assure that any contamination that may originate in the customer's premises is contained therein.

(b) The protective devices shall be of the type approved by the Tennessee Department of Environment and Conservation and the superintendent as to manufacture, model, size and application. The method of installation of backflow protective devices shall be approved by the superintendent prior to installation and shall comply with the criteria set forth by the Tennessee Department of Environment and Conservation and with the installation criteria set forth in paragraph (f) below. The installation shall be at the expense of the owner or occupant of the premises.

(c) Applications requiring backflow prevention devices include, but are not limited to, service and/or fire flow connections for most

commercial and educational buildings, construction sites, all industrial, institutional, and medical facilities, all fountains, lawn irrigation systems, swimming pools, softeners and other point of use treatment systems, and on all fire hydrant connections other than by the fire department in combating fires.

(i) Class 1, Class 2, and Class 3 fire protection systems generally shall require a double check detector assembly, except a reduced pressure backflow prevention device shall be required where:

(A) Underground fire sprinkler pipelines are parallel to and within ten feet horizontally of pipelines carrying sewage or significantly toxic wastes;

(B) Premises have unusually complex piping systems;

(C) Pumpers connecting to the system have corrosion inhibitors or other chemicals added to the tanks of the fire trucks.

(ii) Class 4, Class 5, and Class 6 fire protection systems shall require reduced pressure backflow prevention devices.

(iii) Wherever the fire sprinkler system piping is not acceptable potable water system material, or chemicals such as liquid foam concentrates are used, a reduced pressure backflow prevention device shall be required.

(d) Plumbing for commercial and educational buildings wherein backflow prevention devices are not immediately required shall be designated to accommodate such devices in conformance with the standards for such devices, including the required drains.

(e) Additionally, the superintendent may require internal and/or additional backflow prevention devices wherein it is deemed necessary to protect potable water supplies within the premises.

(f) Installation criteria. Minimum acceptable criteria for the installation of reduced pressure zone type backflow prevention devices, double check valves assemblies, pressure vacuum breakers, or other devices requiring regular inspection and testing shall include the following:

(i) All required devices must be installed pursuant to the Town of Huntingdon City Ordinance by a person certified by the Tennessee Department of Environment and Conservation, Division of Drinking Water, or its successor. Evidence of current certification at the time of installation will be required.

(ii) All devices shall be installed in accordance with the manufacturer's installation instructions, and shall possess all test cocks and fittings required for testing the device. All fittings shall permit direct connection to department test devices.

(iii) The entire device including test cocks and valves shall be easily accessible for testing and repair.

(iv) Reduced pressure backflow prevention devices shall be located a minimum of twelve (12) inches plus the nominal diameter of the device above the floor surface. Maximum height above the floor surface shall not exceed sixty (60) inches.

(v) Clearance of device from wall surfaces or other obstruction shall be a minimum of six (6) inches.

(vi) Devices shall be protected from freezing, vandalism, mechanical abuse, and from any corrosive, sticky, greasy, abrasive, or other damaging environment.

(vii) Devices shall be positioned where discharge from relief port will not create undesirable conditions.

(viii) An approved air-gap shall separate the relief port from any drainage system.

(ix) An approved strainer, fitted with a test cock, shall be installed immediately upstream of the device or shut-off valve before strainer.

(x) Devices shall be located in an area free from submergence or flood potential.

(xi) A gravity drainage system is required on all installations. Generally, below ground installations will not be permitted. On certain slopes where installations below ground level may be permitted, a single or multiple gravity drain system may be used provided that the single drain line is at least four (4) times the area of the relief port or that the multiple drain lines are at least two and one-half (2 1/2) times the area.

(xii) Fire hydrant drains shall not be connected to the sewer, nor shall fire hydrants be installed in such a manner that backsiphonage/backflow through the drain may occur.

(xiii) Where jockey (low volume-high pressure) pumps are utilized to maintain elevated pressure, as in a fire protection system, the discharge of the pump must be on the downstream side of any check valve or backflow prevention device. Where the supply for the jockey pump is taken from the upstream side or the check valve or backflow prevention device, and assembly of the same type as required on the main line shall be installed on the supply line.

(xiv) High volume fire pumps shall be equipped with a suction limiting control to modulate the pump if the suction pressure approaches 10 psi. Ideally, such pumps should draw from an in-house reservoir fed by several supply lines. If any of the supply lines have a source other than the public water supply, all supply lines must have air-gap discharges into the reservoir.

(g) Personnel of the Huntingdon Public Utilities shall have the right to inspect and test the device on an annual basis or whenever deemed necessary by the superintendent. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.

(h) Where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device. Where it is found that only one unit has been installed and the continuance of service is critical, the superintendent shall notify, in writing, the occupant of the premises of plans to interrupt water service and arrange for a mutually acceptable time to test or repair the device. In such cases, the superintendent may require the installation of a duplicate unit. The superintendent shall require the occupant of the premises to make all repairs indicated promptly, and to keep any protective device working properly. The expense of such repairs shall be borne by the owner or occupant of the premises. Repairs shall be made by qualified personnel, acceptable to the superintendent. The failure to maintain a backflow prevention device in proper working order shall be grounds for discontinuance of water service to a premises. Likewise the removal, bypassing, or altering of a protective device or the installation thereof so as to render a device ineffective shall constitute grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of the superintendent.

(i) Testing of devices. Devices shall be tested at least annually by a person possessing valid certification from the Tennessee Department of Environment and Conservation, Division of Drinking Water (or its successor) for the testing of such devices. Records of all tests shall be provided to the Huntingdon Public Utilities. Personnel of the Huntingdon Public Utilities shall have the right to inspect and test the devices whenever deemed necessary by the superintendent. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises. All internal devices are the responsibility of the owner to have annually tested.

(7) Non-potable supplies. (a) The potable water system made available to premises served by the public water system shall be protected from possible contamination as specified herein. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable water system must be labeled in conspicuous manner as:

WATER UNSAFE FOR DRINKING

(b) The minimum acceptable sign shall have black letters one (1) inch high located on a red background.

(c) Color coding of pipelines in accordance with Occupational Safety and Health Act guidelines may be required in locations where, in the judgement of the superintendent, such color coding is necessary to identify and protect the potable water supply.

(8) Provision applicable. The requirements contained herein shall apply to all premises served by the Huntingdon Public Utilities water system whether located inside or outside the corporate limits and are hereby made a part of the conditions required to be met for the town to provide water service to any premises. This "cross connection" chapter shall be rigidly enforced since it is essential for the protection of the water distribution system against the entrance of contamination. Any person aggrieved by the action of the superintendent is entitled to a due process hearing upon timely request. (Ord. #380, Aug. 1996)

18-403. Statement required. Any person whose premises are supplied with water from the public water supply, and who also has on the premises a well or other separate source of water supply, or who stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the superintendent a statement of the non-existence of unapproved or unauthorized cross-connection, auxiliary intakes, bypasses, or interconnections. Such statement shall also contain an agreement that no cross-connection, auxiliary intake, bypass, or interconnection will be permitted upon the premises. (Ord. #380, Aug. 1996)

18-404. Fees. At the present time no fees are required for testing and the inspection of premises. (Ord. #380, Aug. 1996)

18-405. Penalty; discontinuance of water supply.

(1) Penalty. Any person who neglects or refuses to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and subject to a fine of up to \$500.00 on the first offense and \$1,000.00 for each thereafter within any five (5) year period.

(2) Discontinuance of water supply. Independent of and in addition to fines and penalties, the superintendent may discontinue the public water supply service at any premises upon which there is found to be a cross connection, auxiliary intake, by-pass or interconnection, has been discontinued. (Ord. #380, Aug. 1996)

TITLE 19

ELECTRICITY AND GAS

CHAPTER

1. GAS.

CHAPTER 1

GAS¹

SECTION

19-101. To be furnished under franchise.

19-101. To be furnished under franchise. Gas service shall be furnished for the municipality and its inhabitants under such franchise as the governing body shall grant. The rights, powers, duties, and obligations of the municipality, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned.²

¹Municipal code reference
Gas code: title 12.

²The agreements are of record in the office of the town recorder.

TITLE 20

MISCELLANEOUS

CHAPTER

1. FIXED ASSETS, PROPERTY CONTROL AND INVENTORY.
2. EMERGENCY ASSISTANCE.
3. APPROPRIATION OF PUBLIC FUNDS FOR CERTAIN NONPROFIT CHARITABLE GROUPS OR NONPROFIT CIVIC GROUPS OR OTHER GOVERNMENTAL ENTITIES.
4. BEAUTIFICATION COMMITTEE.
5. TOWN PARKS.
6. USE OF TOWN-OWNED VEHICLES.
7. FAIR HOUSING PLAN.
8. SUBSTANCE ABUSE POLICY.
9. ADULT ORIENTED ESTABLISHMENT/MESSAGE REGISTRATION.
10. ADULT ORIENTED ESTABLISHMENTS.

CHAPTER 1

FIXED ASSETS, PROPERTY CONTROL AND INVENTORY

SECTION

- 20-101. Purpose.
- 20-102. Definitions.
- 20-103. General provisions.
- 20-104. Fixed asset control.
- 20-105. Property control.
- 20-106. Inventory control.
- 20-107. Annual inventories.
- 20-108. Property disposal.
- 20-109. Penalties.

20-101. Purpose. This regulation will establish administrative policy and procedure for the accountability and control of the town's fixed assets, personal property, and stored supplies and materials; for adequate inspection and inventory, and for the proper disposal of surplus, obsolete or salvage supplies, materials and/or equipment. (1978 Code, § 1-1301)

20-102. Definitions. For the purpose of this regulation, the following definitions shall apply:

- (1) "Fixed asset:" Any and all real property, i.e., land, buildings, streets, roads and ways, sidewalks, storm drainage systems, water production,

storage and distribution systems, sewage collection and treatment systems, and other such properties, the title to which is vested in the town.

(2) "Personal property:" All other property, i.e. vehicles, construction and maintenance equipment, tools, communications equipment, office furnishings, machines and equipment, not classified as a fixed asset (real property).

(3) "Accountability level:" The monetary limit which is established beyond which the item must be accounted for in the appropriate accounting records.

(4) "Inventory:" The total quantity of supplies and materials maintained on hand for day-to-day operations, maintenance and repairs.

(5) "Obsolete assets:" Assets which because of technical advances or changes in local requirements are no longer adequate to perform the required function, but which are otherwise in serviceable condition.

(6) "Property control officer:" The individual designated by the mayor to be responsible for the creation and maintenance of all necessary records to provide for accurate control and accountability of all fixed assets, property and inventory of the town, or, failing such designation, the mayor him/herself.

(7) "Surplus assets, property or inventory:" Assets, property or supplies and materials which are in good operating and functional condition, but are obsolete or no longer needed to accomplish the appropriate mission of the town government.

(8) "Salvage assets, property or inventory:" Assets, property or supplies and materials which through use have reached a point where it is no longer economically feasible to repair and maintain them.

(9) "Disposal:" The elimination of fixed assets, property or inventory which have been classified as "surplus," "obsolete" or "salvage" by authorized public sale or transfer to other governmental entities. (1978 Code, § 1-1302)

20-103. General provisions. (1) The mayor, as the chief executive officer of the town, has ultimate responsibility for accountability and maintenance of all fixed assets, personal property and inventory owned by the town.

(2) The town recorder/director of finance shall be designated as the property control officer, shall be under the supervision of the mayor, and shall be assigned responsibility for the establishment and maintenance of all necessary controls and records to adequately account for all fixed assets, personal property and inventory of the town which are above the accountability level as hereinbelow established.

(3) The supervisor of each department or activity of the town government shall be responsible to the property control officer for the accountability of all fixed assets, personal property and/or inventory assigned to his or her respective department or activity.

(4) The property control officer shall provide the required control forms and records to be used in the town's property control program. These forms and records shall be standardized for all users. (1978 Code, § 1-1303)

20-104. Fixed asset control. All fixed assets of the town, regardless of the individual unit cost, shall be an accountable item.

(1) Each building shall be a separately accountable item, and shall be identified on a "Land and Building Record" card. The property control officer shall be responsible for the records of the municipal building.

(2) Each separate tract or parcel of land shall be identified on a "Land and Building Record" card. The warranty deed, easement deed, etc., for each such tract will be filed in the town recorder's office.

(3) All other improvements which are classified as a fixed asset shall be identified on a "Fixed Asset Inventory Record" card by type of assets. For example, sewage systems, listed by component, i.e. sewer mains, sewage pumping station, etc.

(a) The initial classifications of such improvements will be coordinated with the property control officer to insure proper identification of each asset and subsequent changes to that asset.

(b) Fixed assets such as pipelines, streets, etc., will be listed by linear footage.

(4) When the provisions of this regulation are initially implemented, it will be necessary to make an estimate of the value of the item in those cases where the original value or cost cannot be ascertained. Thereafter, the acquisition price or fair market value shall be used to indicate the value.

(5) It shall be the responsibility of the supervisor of each department or activity of the town to notify the property control officer, on the prescribed asset change form, of all corrections, additions and/or deletions of accountable fixed assets. (1978 Code, § 1-1304)

20-105. Property control. The accountability level for each item of non-expendable personal property, effective with the date of this regulation, shall normally be two hundred dollars (\$200.00); however, in those cases of small, critical items which require closer control, such as office machines, weapons, communications equipment, photographic equipment, laboratory equipment, etc., these items will be accountable, regardless of initial cost or current value.

(1) Each item of accountable personal property shall be identified on an individual "Property Control and Equipment Inventory Record" card; however, multiples of the same item may be placed on the same card and quantities, costs, serial numbers, item numbers, etc. listed thereon.

(2) The initial establishment of the property control procedures will require complete inventory and identification of all items to be placed under property control. Estimates as to value will be required where the original value

or cost is unknown. Adequate nomenclature shall be established by the property control officer to insure that each item of equipment is adequately classified.

(3) Subsequent corrections, additions and/or deletions of items from the property control records shall be the responsibility of the supervisor of the department or activity to which the items are assigned. The property control officer shall provide the necessary form to be used for each such change. (1978 Code, § 1-1305)

20-106. Inventory control. Each supervisor of a department or activity of the town government which stores or maintains a stockage (inventory) of spare parts and supplies or materials of significant value will be responsible for maintaining a "running inventory" of all such materials. The property control officer will provide the necessary inventory forms; however, these forms will be maintained in the department or activity and available for review during audits. (1978 Code, § 1-1306)

20-107. Annual inventories. A one hundred percent (100%) physical inventory of all fixed assets, personal property and inventory shall be conducted a minimum of once each fiscal year, during the month of May. The property control officer will provide each department or activity concerned the necessary inventory forms. This annual inventory will insure that all property is accounted, its serviceability noted, and the proper data posted to the appropriate property records for the annual audit of the town's records. (1978 Code, § 1-1307)

20-108. Property disposal.¹ All items of fixed assets, personal property and/or supplies and materials which have been determined to be surplus, obsolete or salvage items will be disposed of in the following manner:

(1) The supervisor of each department or activity of the town government which has such items to be disposed of will submit a "Request for Disposal" to the property control officer, who will refer the request to the mayor for approval.

(2) The mayor shall have the authority to authorize the disposal of such items where the value (sale price) is not expected to exceed \$500.00.

(3) The disposal of a surplus, obsolete or salvage item, the value of which is in excess of \$500.00 will require the approval of the council.

(4) The disposal of any real property of the town will require the approval of the council.

(5) All surplus, obsolete or salvage items to be sold shall be sold by either sealed bids or public auction, subsequent to the public advertisement of

¹Charter reference: § 4.09.

the sale at least one time in the town's official newspaper at least 14 days prior to the sale.

(a) With the authorization of the mayor, such items with a value of \$50.00 or less may be sold without bids or public auction; however, each such sale shall be reported to the council at its next regular meeting.

(b) The transfer of surplus, obsolete, or salvage items to other governmental entities may be accomplished on a negotiated basis, subject to the approval of the council. (1978 Code, § 1-1308)

20-109. Penalties. The disposal of any fixed asset, personal property and/or inventory of supplies and materials owned by the town by any other manner or means than those hereinabove prescribed, unless the council has lawfully and specifically authorized an exception thereto, by any officer, official or employee of the Town of Huntingdon, or other individual(s), is an unlawful action, and may subject the person or persons responsible to personal financial liability for any loss to the town incurred thereby, and may also result in other legal recourse, and possible termination with prejudice of the employment by the town of such person or persons. (1978 Code, § 1-1309)

CHAPTER 2

EMERGENCY ASSISTANCE

SECTION

20-201. General policy statement.

20-202. Definitions.

20-203. Requesting assistance.

20-204. Responding to a request for emergency assistance.

20-205. Use of fire apparatus outside corporate limits.

20-206. Limiting condition.

20-201. General policy statement. The governing body of the Town of Huntingdon (the "town") has deemed it to be in the best interest of the general health and welfare of the citizens of said town to provide an emergency assistance program under the provisions of the Local Government Emergency Assistance Act of 1987 of the State of Tennessee.

(1) The purpose of this document is to establish the policy and procedures that will govern the Town of Huntingdon, Tennessee, and its' department, agencies or activities in the process of requesting emergency assistance from another local governmental entity, or in responding to the request of another local governmental entity, either within or without the corporate limits of the town.

(2) The following sections establish the guidelines under which decisions and their extent of implementation will be made regarding emergency assistance. (1978 Code, § 1-1701)

20-202. Definitions. (1) "Emergency assistance" as defined in the Local Government Emergency Assistance Act of 1987 (the "Act") shall mean fire fighting assistance, law enforcement assistance, public works assistance, emergency medical assistance, civil defense/emergency management assistance, or other emergency assistance provided by local government or any combination or all of these services requested by a local government in an emergency situation in which the resources of the requesting local government are not adequate to handle the emergency.

(2) "Local government" shall mean any incorporated city or town, metropolitan government, county, county utility district, metropolitan airport authority, or other regional district or authority.

(3) "Requesting party" means a local government which request emergency assistance.

(4) "Responding party" means a local government which responds to a request for emergency assistance.

(5) "Appropriate senior officer" shall mean the mayor, the chief of police, the fire chief, the superintendent of public utilities, the superintendent

of public works, or their designees, depending on the emergency response required. (1978 Code, § 1-1702)

20-203. Requesting assistance. All request for emergency assistance made on behalf of the town shall be made or authorized by the mayor or his authorized representative. The town, through its appropriate senior officer, in accordance with the provisions of the Act will be in full command of its emergency as to strategy, tactics and overall direction of the operation and shall direct the actions of the responding party by relaying orders to the senior officer in command of the responding party.

(1) The town accepts liability for damages or injuries, as defined in Tennessee Code Annotated, § 29-20-101 et seq., caused by the negligence of its employees or the employees (including authorized volunteers) of a responding party while under the command of the senior officer of the town; however, the town does not accept liability for damages to the equipment or personnel (including authorized volunteers) of a responding party, nor is the town liable for any damages caused by the negligence of the personnel of the responding party, while enroute to or returning from the scene of the emergency.

(2) The town acknowledges that any party from whom assistance is requested has no duty to respond nor does it have any duty to stay at the scene of the emergency and may depart at its discretion. (1978 Code, § 1-1703)

20-204. Responding to a request for emergency assistance. The town will respond to calls for emergency assistance only upon request for such assistance made by the appropriate senior officer on duty for the requesting governmental entity. All request for emergency assistance shall be made to the mayor, chief of police, fire chief, superintendent of public utilities, the superintendent of public works, or their principal assistants, as applicable, and, where possible, shall receive prior approval of the mayor.

(1) Upon the receipt of a request for aid as provided for in the preceding paragraph the town is authorized to respond as follows:

(a) The town is authorized to provide at least one (1) piece of equipment and one (1) person or crew from that particular service area from which emergency assistance is requested.

(b) The greatest response that the town will provide is fifty percent (50%) of the personnel and resources of that particular service for which emergency assistance is requested. The town's response shall be determined by the severity of the emergency in the requesting party's jurisdiction as reported by the senior officer of the requesting government.

(2) The town has no duty to respond to a request and will reject a request for emergency assistance or will depart from the scene of the emergency based upon the discretionary judgement of the appropriate senior officer in

command at the scene of the emergency or of the appropriate senior officer (department head) of that service for the town, or of the mayor.

(3) In cases where two or more request for emergency assistance are made at the same time, the appropriate senior officer of the town shall determine, based upon a reasonable appraisal of the emergencies of the requesting jurisdictions, how best to respond to the request. The appropriate senior officer may determine to send all available, allowable resources to the jurisdiction with the most dire emergency, or may send some resources to each requesting jurisdiction.

(4) The town accepts full liability, as defined in Tennessee Code Annotated, § 29-20-101 et seq., for any damages to its equipment and personnel in responding to a request for emergency assistance and of damages caused by its equipment or personnel while en route to or returning from the scene of the emergency; however, the town shall not be liable for any property damage or bodily injury at the actual scene of any emergency due to actions which are performed in responding to a request for emergency assistance.

(5) The personnel of the town shall have extended to them to any geographic area necessary as a result of a request for emergency assistance the same jurisdiction, authority, rights, privileges, and immunities, including coverage under the Worker's Compensation Laws, which they have in the town. (1978 Code, § 1-1704)

20-205. Use of fire apparatus outside corporate limits. Provisions concerning the response of the town's fire apparatus to request from private parties (non-governmental entities) outside the corporate limits are contained in Huntingdon Municipal Code, § 7-304. (1978 Code, § 1-1705)

20-206. Limiting condition. Emergency assistance request or responses will be made only with those local governmental entities that have also adopted policies and procedures that govern their actions during such request or responses. (1978 Code, § 1-1706)

CHAPTER 3**APPROPRIATION OF PUBLIC FUNDS FOR CERTAIN
NONPROFIT CHARITABLE GROUPS OR NONPROFIT
CIVIC GROUPS OR OTHER GOVERNMENTAL ENTITIES.****SECTION**

- 20-301. Purpose.
- 20-302. Policy.
- 20-303. Definitions.
- 20-304. Administrative procedures.
- 20-305. Budget requirements.
- 20-306. Public notice requirements.

20-301. Purpose. It is the purpose of this regulation to establish and codify the policy and procedure of the Town of Huntingdon, Tennessee, (the "town") for the appropriation and disbursement of certain public funds of the town to:

(1) Nonprofit charitable organizations to assist them in the provision of year-round charitable services benefiting the general health, safety and welfare of the citizens of the town, and

(2) Nonprofit civic organizations to assist them in furthering the economic development, social welfare, and common good of the citizens of the town, and

(3) To governmental entities and/or elements or agencies created thereby to support those programs thereof which will directly benefit the general health safety and welfare of the citizens of the town. (1978 Code, § 1-1801)

20-302. Policy. It shall be the policy of the Town of Huntingdon to appropriate its public funds only to those nonprofit charitable organizations; nonprofit civic organizations or other governmental entities which provide direct services which specifically benefit the general health, safety and welfare of the citizens of the town; after adequate inquiry has substantiated the validity of the requested funding, and subject to specific, individual, approval by the town council and to the availability of adequate revenues in the general fund to provide the monies therefor. (1978 Code, § 1-1802)

20-303. Definitions. For the purposes of this regulation, the following definitions shall apply:

(1) A "nonprofit charitable organization" is one in which no part of the net earnings inures or may lawfully inure to the benefit of any private shareholder or individual and which provides year-round programs, facilities and/or services directly benefiting the general health, safety and welfare of the citizens of the town. [Tennessee Code Annotated, § 6-54-111(a)(2)A]

(2) A "nonprofit civic organization" is one which is exempt from taxation pursuant to paragraph (4), subsection (c) of Section 501 of the Internal Revenue Code of 1954, as amended, and which operates primarily for the purpose of bringing about civic betterments and social improvements through efforts to maintain and increase employment opportunities in the municipality by promoting industry, trade, commerce, tourism, and recreation by inducing manufacturers, industrial, governmental, educational, financial, service, commercial, recreational and agricultural enterprises to locate in or remain in the town. [Tennessee Code Annotated, § 6-54-111(a)(2)B]

(3) A "governmental entity" is a unit of federal, state, local or municipal government, or an agency or activity created thereby pursuant to public law and subject to standard government accounting and auditing practices and procedures, which provides a local program directly benefiting the general health, safety and welfare of the citizens of the town. (1978 Code, § 1-1803)

20-304. Administrative procedures. (1) The overall administration of this program shall be the responsibility of the director of finance of the town.

(2) Each qualified organization which desires to receive funding or partial funding of its programs and activities by the town shall file with the director of finance a written request, on such forms as he may from time-to-time prescribe, and at the time and place specified annually by him, for consideration by the town council for inclusion in the next budget year, which will commence on July 1st of each year. As a matter of routine, the director of finance shall provide those organizations that he is aware of with application packets about March 15th of each year.

(3) A request for funding shall contain the following information as a minimum; however, the director of finance may require such additional information or documentation as he may require to substantiate the validity of the requested funding:

(a) A statement of the dollar amount being requested.

(b) The specific purpose or purposes for which the requested funds are to be used, and the time period during which these funds are to be used.

(c) A statement of how the requested funds will specifically benefit the citizens of the Town of Huntingdon.

(d) A statement that the requesting organization will permit such inspection or audit of their records by designated officials of the town as may be necessary to ascertain their compliance with all applicable federal, state or local laws and regulations.

(e) A copy of the most recent annual report of the organization's business affairs and transactions, which shall contain a copy of the most recent financial statement, must be filed with the request for funds.

(f) A certification by the appropriate official of the requesting agency that the agency does not, nor will not, discriminate in its plans, programs or activities on the basis of race, color, national origin, creed, religion, age, sex, handicap or any other basis which has been declared as "discriminatory" by applicable federal or state regulations, or applicable judicial decisions.

(4) No disbursements shall be made by the director of finance to eligible organizations which are in excess of the budgeted appropriations.

(5) The director of finance shall make available to interested organizations and agencies the necessary application forms, and provide them assistance in the filing of request for funding.

(6) The council shall review each separate request for funding, judge same on its individual merits, and approve any funding during the annual budget preparation process. (1978 Code, § 1-1804)

20-305. Budget requirements. All appropriations of the town's public funds for the purposes as authorized hereinabove shall become a part of the general fund budget. Each approved organization or agency shall be identified as a separate item in the general fund line item budget supplement, and duly considered at the required public hearing for said budgets.

(1) Subsequent to the passage and approval of the annual budget ordinance, but prior to the disbursement of any public funds for the purposes hereinabove stated, the council shall, by a separate appropriations resolution duly adopted and approved, identify each separate organization authorized finding, the amount of the funding, the total of the appropriations,

(2) All disbursements of funds authorized under the provision of this chapter shall be subject to the availability of cash funds in the general fund account. Normally, the disbursements will be made between, July 15th and August 1 of each budget year. (1978 Code, § 1-1805)

20-306. Public notice requirements. The director of finance shall disburse said funds only after publication of a summary of said resolution at least one (1) time in the town's official newspaper showing the name of each approved organization and the amount of funds appropriated thereto. (1978 Code, § 1-1806)

CHAPTER 4

BEAUTIFICATION COMMITTEE

SECTION

20-401. Creation, authority, purpose and title.

20-402. Membership and terms.

20-403. Officers.

20-404. Administration

20-405. Function.

20-406. Compensation and funding.

20-401. Creation, authority, purpose and title. Pursuant to the general authority contained in art. I, § 1.04(s), of the Charter of the Town of Huntingdon, Tennessee, there shall be and is hereby created a committee for the purpose of advising, aiding and assisting the governing body of the Town of Huntingdon, Tennessee (the "town council"), in formulating and implementing policies, activities and programs which serve to improve the overall appearance of the community, including, residential, business, commercial and industrial areas, thereby contributing to the general health, safety and welfare of the town. This body shall be named and known as the "Beautification Committee of the Town of Huntingdon" (the "committee"). (1978 Code, § 1-2101)

20-402. Membership and terms. The membership of the committee shall consist of ten (10) members who are representative of a cross-section of the community. They shall be appointed by the mayor for staggered terms of five (5) years. At the time of the original ten (10) appointments, and to initiate the staggered terms, two members will be appointed for one (1) year, two for two (2) years, two for three (3) years, two for four (4) years, and two for five (5) years. Thereafter, all appointments or reappointments will be for terms of five (5) years.

(1) None of the members shall be elected or appointed officials of the town.

(2) The serving mayor and superintendent of public works shall serve as members ex-office during their respective terms. (1978 Code, § 1-2102)

20-403. Officers. At the first meeting of the committee subsequent to its creation, the members shall elect from the membership a chairperson, vice-chairperson, secretary and treasurer to serve for their respective terms of appointment. Other offices may be designated by the committee as may be required from time-to-time. (1978 Code, § 1-2103)

20-404. Administration. The committee shall set its own by-laws and meeting schedule in accordance with the open meeting laws of the state. The

department of finance and administration shall provide the committee such administrative support as it may need, within the limits of their capabilities. (1978 Code, § 1-2104)

20-405. Function. The affairs of the committee shall be conducted in a manner determined by the town council. The committee shall not be responsible for the supervision of staff, the hiring or dismissal staff, the expenditure of public funds or the promulgation or enforcement of rules and regulations governing operations of the town; however, the committee may advise the town council on any of these matters and act on behalf of said council, on a case by case basis, if so authorized by the governing body. (1978 Code, § 1-2105)

20-406. Compensation and funding. All members of the committee shall serve without pay; however, with prior approval of the mayor and funding by the town council, members may be reimbursed for actual expenses involved in the discharge of their official duties on behalf of the town in accordance with the town's comprehensive travel regulations. The committee is empowered to raise funds from private sources for their projects; however, incidental funding for operations of the committee may be provided by the town council in the town's normal budgeting processes. The committee must maintain basic accounting procedures for all funds, public or private, which are received and thereby. (1978 Code, § 1-2106)

CHAPTER 5

TOWN PARKS

SECTION

20-501. Rules and regulations for use of town parks.

20-502. Fees.

20-503. Hours of operation.

20-501. Rules and regulations for use of town parks. For the purposes of this chapter, "parks" shall include all dedicated parks, parks established by adverse uses, parks on leased and purchased property, all planted parkways, triangles, and traffic circles maintained by the Town of Huntingdon, Tennessee, except the parkway strips between curb and sidewalk along the several streets and highways of said town. The following rules and regulations are established for all town parks and it shall be unlawful for anyone to violate said rules and regulations.

(1) No person shall injure or damage the grounds or any structure, rock, tree, shrub, flower, bird, or animal within any park nor shall he gather limbs, bush, or trees therein for firewood.

(2) No person shall dump or deposit any trash, refuse, rubbish, litter, or other kind of waste materials, except in approved containers specifically placed and designated to receive such waste materials.

(3) No person shall bring into or use any glass containers or objects in any town park.

(4) No person shall construct or erect on any portion of any town park, any sign, building, fence, or structure of whatever kind, whether permanent or temporary in character, or run, or string or install any public service utility into, upon, or across such lands, except on special written permit of the town recorder. Each day such condition exists shall constitute a separate offense.

(5) Firearms shall be prohibited at all times except by authorized personnel.

(6) No person shall discharge or set off any fire crackers, torpedoes, rockets, or other fireworks except where a permit has been granted by the town recorder. The town recorder shall grant said permit only where he finds that:

(a) It is for an established civic celebration,

(b) The person proposing to discharge or set off said fireworks has the necessary skill and experience to do so, and

(c) That it can be done without endangering persons or property.

(7) Bows, slingshots, and other missile or projectile throwing devices are prohibited except for the use of bows in designated archery ranges. Bows shall be used under supervision of park personnel or other authorized persons only.

(8) No person shall stable, pasture, or keep animals or insects on any portion of any town park. Dogs must be kept on a leash while in any town park, and no dog or animal shall be allowed in any building.

(9) No vending or advertising of merchandise shall be permitted without permission of the mayor and town council.

(10) It shall be unlawful to sell or offer for sale or to rent or lease any merchandise, article, or thing, whatsoever, unless granted a valid permit by the mayor and town council.

(11) Motorists shall observe speed limits as posted and park only in designated areas. Where no speed limits are posted in any town park, the speed limit shall be ten (10) miles per hour.

(12) All vehicles, including bicycles and motorcycles, must remain on paved roadways inside town park areas.

(13) No alcoholic beverage of any kind shall be permitted in any town park area.

(14) Unauthorized running or rough play shall not be permitted in any town park area.

(15) No person shall use any loud, boisterous, abusive, insulting, threatening, or indecent language or gesture, or engage in any disorderly conduct or behavior tending to a breach of the public peace.

(16) No person who is over eight years of age shall enter or use any water closet, restroom, dressing room, or other facility designated for exclusive use by persons of the opposite sex in any town park.

(17) It shall be unlawful for any person or persons to assemble, collect, or gather together in any walk, passageway, or pathway set apart for the travel of persons through any town park or occupy same so that the free passage or use thereof by persons passing along the same shall be obstructed in any manner.

(18) All persons using the facilities of any park must pay the fees designated by the mayor and town council before engaging in use of the facilities.

(19) No person shall use any town park within the town except for recreation purposes or the use to which such property is customarily devoted.

(20) No carnival, circus, rodeo, or similar show or attraction may operate in any town park without prior permission of the mayor and town council.

(21) Any carnival, circus, rodeo, group, club, individual, firm, or corporation using a town park for any purpose or sponsoring or promoting any activity therein, must agree to repair any damage done to fields, fences, stands, light poles, structure, landscaping, or other improvements caused by its use of park facilities, and shall further agree to clear the park of all rubbish, trash, or other debris immediately after said use. Any violation of this section shall result in forfeiture of the right to further use of the park.

(22) Overnight camping is prohibited in town parks except in areas which may be clearly designated and signed for such use.

(23) Fires are prohibited in town parks except in barbecues or fire rings which are designated for public use.

(24) No tournament, playoff, contest, or game of any kind in which an entrance fee is charged, will be allowed without prior permission of the mayor and town council.

(25) It shall be unlawful to disturb in any manner any picnic, meeting, service, concert, exercise, exhibition, or game, which is lawfully in process.

(26) It shall be unlawful to distribute any handbills or circulars, or to post, place, or erect any bills, notice, or paper of any kind in any town park.

(27) The town police or employees of the parks and recreation department shall have the authority to seize and confiscate any property, thing, or device in any town park, used in violation of any ordinance of the Town of Huntingdon, Tennessee, or any law of the State of Tennessee. (1978 Code, § 12-301)

20-502. Fees. The mayor and town council may from time to time establish, at their discretion, a fee schedule for use of certain parks and for facilities. Said fees shall be established by resolution. (1978 Code, § 12-302)

20-503. Hours of operation. To protect the residential areas of the town from undue disturbance and to also preserve the safety of users of town parks, the mayor and town council may establish by resolution, hours of operation of town parks. Due to differing locations and types of use, hours of operation may vary from park to park. Certain facilities within the parks may be designated for different hours of operation than the park as a whole. No person or group shall use any town park or its facilities outside hours established for their use. (1978 Code, § 12-303)

CHAPTER 6

USE OF TOWN-OWNED VEHICLES

SECTION

- 20-601. Purpose.
- 20-602. Use of town-owned vehicles.
- 20-603. Record-keeping and taxation.
- 20-604. Vehicles exempted from taxation.
- 20-605. Storage.

20-601. Purpose. To establish a formal policy and procedure governing the use on town-owned vehicles for commuting purposes by employees or officials of the Town of Huntingdon. (1978 Code, § 1-2401)

20-602. Use of town-owned vehicles. All vehicles and equipment of the Town of Huntingdon are public property and are to be used for official business only except as follows:

(1) Employees and officials of the Town of Huntingdon may be authorized to use town-owned vehicles for commuting between their work site and residence when such use is in the best interest of the town, and is recommended by the department or activity supervisor and approved by the mayor for bona-fide non-compensatory reasons for the conduct of official town business and for de minimis personal use, such as stops for meals taken in the course of employment or on the way to and from their residence that do not materially increase the number of miles the vehicle is driven.

(2) All such authorization shall be in writing, signed by the employee or official and the approving authority, and containing a statement of understanding by the employee or official as to the restrictions on the use of town-owned vehicles. (1978 Code, § 1-2402)

20-603. Record-keeping and taxation. Employees or officials using town-owned vehicles for commuting are subject to the record-keeping and taxation on such use as an implied benefit required by the Internal Revenue Service (IRS) final regulations on "Taxation of Fringe Benefits", published on July 6th, 1989, unless the vehicle being used meets the standards of the IRS regulation as they relate to vehicles exempt from record-keeping and taxation.

(1) Employees or officials who utilize town-owned vehicles for commuting purposes which do not meet the exempt status as defined by the IRS regulations, will be subject to the "commuting valuation rule" per IRS Rule #1.61-21(f). Under this rule such employees or officials will be taxed a value or charge of \$1.50 one way or \$3.00 for each round trip. Withholding tax on this charge will be withheld from the employee's or official's payroll by the department of finance and administration on a quarterly basis.

(2) Employees or officials who chose to use the special commuting valuation rule for commuting in non-exempt town-owned vehicles will be provided written guidelines governing such use; the necessary agreement form to be signed by the employee or official; vehicle logs and quarterly reports on forms to be provided by the department of finance and administration. (1978 Code, § 1-2403)

20-604. Vehicles exempted from taxation. All of the town's vehicles and equipment meet the requirements for exemption from the IRS rule on record-keeping and taxation except for 1/2 ton and 3/4 ton pickup trucks with standard beds; however, these trucks may also be exempted provided that the town's official logo or signs are permanently affixed to both sides of the truck and the truck is equipped with one of the following:

- (1) A hydraulic-lift tailgate, or
- (2) Permanently installed tanks or drums, or
- (3) Low-profile tool boxes permanently installed on the inside of each side of the bed, the tops of which extend approximately 4" above the original sides, or
- (4) Permanently installed heavy equipment such as a welder, electric generator, boom or crane. (1978 Code, § 1-2404)

20-605. Storage. Town-owned vehicles not being used for commuting purposes, or after normal business hours, shall be secured on town-owned property unless temporarily located elsewhere, such as for maintenance. (1978 Code, § 1-2405)

CHAPTER 7

FAIR HOUSING PLAN

SECTION

- 20-701. Definitions.
- 20-702. Unlawful acts.
- 20-703. Exception.
- 20-704. Access to multiple-listing services, etc.
- 20-705. Complaints.
- 20-706. Violations.
- 20-707. Exhaustion of remedies.

20-701. Definitions. Whenever used in this chapter, the following words and terms shall have the following meanings unless the context necessarily requires otherwise:

(1) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location of any such building.

(2) "Family" includes a single individual.

(3) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trust unincorporated organizations, trustee, trustees in bankruptcy, receivers and fiduciaries.

(4) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

(5) "Fair Housing Committee" means the Huntingdon Town Council which will hear, make determination, issue findings in all cases of discriminatory practice. (1978 Code, § 4-701)

20-702. Unlawful acts. Subject to the exceptions hereinafter set out, it shall be unlawful for any person to do any of the following acts:

(1) To refuse to sell or rent after the making of a bona fide offer to do so or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny a dwelling to any person because of race, color, religion, sex, national origin, familial status or handicap.

(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, national origin, familial status or handicap.

(3) To make, print, or publish, or cause to be made, printed or published, any notice, statement, or advertisement, with respect to the sale or

rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, national origin, familial status or handicap.

(4) To represent to any person because of race, color, religion, sex, national origin, familial status or handicap that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, national origin, familial status or handicap.

(6) To refuse to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by that person if such modifications are necessary to afford that person full enjoyment of the premises.

(7) To refuse to make reasonable accommodations in rules, policies, practices, or service, when such accommodations are necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling. (1978 Code, § 4-702, as amended by Ord. #356, Jan. 1995)

20-703. Exception. Nothing in this chapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than commercial purposes to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, religion, national origin, sex, familial status or handicap. (1978 Code, § 4-703, as amended by Ord. #356, Jan. 1995)

20-704. Access to multiple-listing services, etc. It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation on account of race, color, religion, national origin, sex, familial status or handicap. (1978 Code, § 4-704, as amended by Ord. #356, Jan. 1995)

20-705. Complaints. Any person who claims to have been injured by an act made unlawful by this chapter, or who claims that he will be injured by such an act, may file a complaint with the mayor, chairman of the "Fair Housing Committee." A complaint shall be filed within 30 days after the alleged unlawful act occurred. Complaints shall be in writing and shall contain such information and be in such form as required by the said committee. Upon receipt of a complaint, the committee shall promptly investigate it and shall

complete its investigation within 30 days. If a majority of the committee finds reasonable cause to believe that a violation of this chapter has occurred, or if a person charged with a violation of this chapter refuses to furnish information to said committee, the committee may request the town attorney to prosecute an action in the town court against the person charged in the complaint. Such request shall be in writing. Upon receiving such written request and with the assistance of the aggrieved person and said committee, within 15 days after receiving such request, the town attorney shall be prepared to prosecute an action in the town court, provided a warrant is sworn out by the aggrieved person and served upon the person or persons charged with the offense. (1978 Code, § 4-705)

20-706. Violations. Any person violating any provision of this chapter shall be guilty of an offense and upon conviction shall pay a penalty of not more than \$50.00 for each offense. Each day such violation shall continue constitutes a separate offense. (1978 Code, § 4-706)

20-707. Exhaustion of remedies. Nothing in this chapter requires any person claiming to have been injured by an act made unlawful by this chapter to exhaust the remedies provided herein: no prevent any such person from seeking relief at any time under the Federal Civil Rights Act or other applicable legal provisions. (1978 Code, § 4-707)

CHAPTER 8

SUBSTANCE ABUSE POLICY

SECTION

- 20-801. Statement of policy.
- 20-802. General rules.
- 20-803. Drug testing policy.
- 20-804. Right to a hearing.
- 20-805. Mandatory employee assistance program referral.
- 20-806. Confidentiality of test results.
- 20-807. Laboratory testing requirements.

20-801. Statement of policy. Illegal and excessive use of drugs has become an epidemic in our nation. Any abuse and use at the workplace are subjects of immediate concern in our society, and in our community particularly. From a safety perspective, the users of drugs may impair the well-being of all employees, the public at large, and result in damage to the town's property. Drug use may also seriously impair an employee's ability to perform his or her job and adversely effect the performance of other employees. Therefore, it is the policy of the Town of Huntingdon, Tennessee, that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance or intoxicants in the town's workplaces is prohibited. Any employee violating this policy will be subject to discipline up to and including termination with prejudice. The specifics of this policy are as follows:

(1) A "workplace" of the Town of Huntingdon is defined as any place, site or area wherein or whereon an employee may be performing his or her official duties, be it in a building, premise, vehicle or equipment, whether publicly or privately owned.

(2) The term "controlled substance" means any drug listed in 21 U.S.C. 812 and other federal regulations. Generally, these are drugs which have a high potential for abuse. Such drugs include, but are not limited to, Heroin, Marijuana, Cocaine, PCP, and "Crack". They also include "legal drugs" which are not prescribed by a licensed physician to an alleged violator.

(3) Each employee is required by law to inform the personnel officer within five (5) days after he or she is convicted for violation of any federal or state criminal drug statute where such violation occurred on town property. A conviction means a finding of guilt (including a plea of nolo contendere) or the imposition of a sentence by a judge or jury in any federal or state court.

(4) The Town of Huntingdon must then notify the appropriate government agency with which the grant contract was made within ten (10) days after receiving notice from the employee or otherwise receiving actual notice of such a conviction.

(5) If an employee is convicted of violating any criminal drug statute while on the workplace, he or she will be subject to discipline up to and including termination. Alternatively, the town may require the employee to successfully finish a drug abuse program sponsored by an approved private or governmental institution.

(6) As a condition of employment or continued employment by the town, the law requires all employees to abide by this policy. (Ord. #350, Aug. 1994)

20-802. General rules. (1) Town employees shall not take, or be under the influence of, any narcotics or dangerous substance unless prescribed by the employee's licensed physician. Employees who are required to take such prescription medicine should notify their immediate supervisors of the medication prescribed and the nature of the illness or injury.

(2) Town employees are prohibited from the use, possession and sale of drugs, alcohol or other intoxicants, or any other controlled substance on town property or in town vehicles.

(3) All property belonging to the town is subject to inspection at any time without notice as there is no expectation of privacy.

(a) Property includes, but is not limited to, vehicles, desks, containers, files, and storage lockers.

(b) Employees assigned lockers (that are locked by the employee) are also subject to inspection by the employee's supervisor after reasonable advance notice, (unless waived by the chief administrative officer) and in the presence of the employee.

(4) Town employees who have reason to believe another employee is illegally using drugs or narcotics, shall report the facts and circumstances immediately to the supervisor.

(5) Failure to comply with the intent or provisions of this general order may be used as grounds for disciplinary action. (Ord. #350, Aug. 1994)

20-803. Drug testing policy. (1) Drugs to be tested for: When drug and alcohol screening is required under the provisions of this policy, a urinalysis test will be given to detect the presence of the drug groups listed below. This list is not intended as an exhaustive inventory of every drug for which an employee can be tested. The selection of drugs subject to testing will be based upon known abuse in the community and the ability of each drug to affect job performance.

(a) Alcohol (Ethyl).

(b) Amphetamines (e.g. Speed).

(c) Barbiturates (e.g. Amobarbital, Butobarbital, Phenobarbital, Secobarbital).

(d) Cocaine.

(e) Methaqualone (e.g. Quaalude).

(f) Opiates (e.g. Codeine, Heroin, Morphine, Hydromorphone, Hydrocodone).

(g) Phencyclidine (PCP).

(h) THC (Marijuana).

(2) Prior notice of testing policy: The town shall provide written notice of its drug and alcohol testing policy to all employees and job applicants. The notice shall contain the following information:

(a) The need for drug and alcohol testing;

(b) The circumstances under which testing may be required;

(c) The procedures for confirming an initial positive drug test result;

(d) The consequences of a confirmed positive test result;

(e) The consequences of refusing to undergo a drug and alcohol test;

(f) The right to explain a positive test result and the appeal procedures available; and

(g) The availability of drug abuse counseling and referral services.

(3) Consent: Before a drug and alcohol test is administered, employees and job applicants will be asked to sign a consent form authorizing the test and permitting release of test results to those town officials with a need to know. The consent form shall provide a space for employees and applicants to acknowledge that they have been notified of the town's drug testing policy and to indicate current or recent use of prescription or over-the-counter medication. The consent form shall also set forth the following information:

(a) The procedure for confirming an initial positive test result;

(b) The consequences of a confirmed positive test result;

(c) The right to explain a confirmed positive test result and the appeal procedures available; and

(d) The consequences of refusing to undergo a drug and alcohol test.

(4) Job applicant testing, general standard: Applicants for all classes of employment with the town will be required to undergo a drug and alcohol test upon the offer of employment and prior to their final appointment.

(5) Current employee testing, general standard:

(a) The town may require a current town employee to undergo drug and alcohol testing if there is reasonable suspicion that the employee is under the influence of drugs or alcohol during working hours. "Reasonable suspicion" means an articulate belief based on specific facts, and reasonable inferences drawn from those facts, that an employee is under the influence of drugs or alcohol. Circumstances which constitute a basis for determining "reasonable suspicion" may include, but are not limited to:

(i) A pattern of abnormal or erratic behavior;

- (ii) Information provided by a reliable and credible source;
- (iii) A work-related accident;
- (iv) Direct observation of drug or alcohol use; or
- (v) Presence of the physical symptoms of drug or alcohol use (i.e., glassy or bloodshot eyes, alcohol odor on breath, slurred speech, poor coordination and/or reflexes).

(b) Supervisors are required to detail in writing, the specific facts, symptoms, or observations which formed the basis for their determination that reasonable suspicion existed to warrant the testing of an employee. This documentation shall be forwarded through appropriate department head or designated alternate to the personnel officer.

(6) Refusal to consent, applicant: A job applicant who refuses to consent to a drug and alcohol test will be denied employment with the town.

(7) Refusal to consent, employees: An employee who refuses to consent to a drug and alcohol test when reasonable suspicion of drug or alcohol use has been identified, is subject to disciplinary action up to and including termination. The reason(s) for the refusal shall be considered in determining the appropriate disciplinary action.

(8) Confirmation of test results:

(a) An employee or job applicant whose drug test yields a positive result shall be given a second test using a gas chromatography/mass spectrometry test. The second test shall use a portion of the same test sample withdrawn from the employee or applicant for use in the first test.

(b) If the second test confirms the positive test result, the employee or applicant shall be notified of the results in writing by the appropriate department head or designated alternate. The letter of notification shall identify the particular substance found and its concentration level.

(c) An employee or applicant whose second test confirms the original positive test results may, at the employee's or applicant's own expense, have a third test conducted on the same sample at a laboratory selected by the town.

(9) Consequences of a confirming positive test result, job applicants: Job applicants will be denied employment with the town if their initial positive test results have been confirmed. Applicants shall be informed in writing if they are rejected on the basis of confirmed positive drug test results.

(10) Consequences of a confirming positive test result, current employees: If a current employee's positive test result has been confirmed, the employee is subject to a disciplinary action up to and including termination. Factors to be considered in determining the appropriate disciplinary response include the employee's work history, length of employment, current job

performance, and existence of past disciplinary actions. No disciplinary action may be taken against employees who voluntarily identify themselves as drug users, obtain counseling and rehabilitation through the town's Employee Assistance Program or other program sanctioned by the town, and thereafter refrain from violating the town's policy on drug and alcohol abuse. (Ord. #350, Aug. 1994)

20-804. Right to a hearing. (1) If an employee's positive test results have been confirmed, the employee is entitled to a hearing before any disciplinary action may be taken by the town. The employee must make a written request for a hearing through the appropriate department head or designated alternate to the personnel officer within 15 days of receipt by the employee of the confirmation test results. Employees may be represented by legal counsel, present evidence and witnesses on their behalf, and confront and cross-examine the evidence and witnesses used against them.

(2) No adverse personnel action may be taken against an employee based on a confirmed positive test result unless the hearing officer finds by a preponderance of the evidence that:

(a) The employee's supervisor had reasonable suspicion to believe that the employee was under the influence of drugs or alcohol while on the job; and

(b) The employee's drug test results are accurate.

(3) Within 30 days following the close of the hearings, the hearing officer shall issue a written decision and a brief summary of the facts and evidence supporting that decision.

(4) Upon the filing of an appeal by an employee for a hearing under the provisions of this section, the mayor shall appoint an impartial board consisting of two (2) persons, one of whom shall be a serving council-member of the town who shall serve as chairperson and one an employee from a department of the town other than the appellant. The appointed town attorney shall serve as legal advisor to this board. (Ord. #350, Aug. 1994)

20-805. Mandatory employee assistance program referral. Upon the first confirmed determination that an employee is under the influence of drugs or alcohol, the town shall refer the employee to an Employee Assistance Program (EAP) for assessment, counseling, and rehabilitation. Participation in an EAP is voluntary and no disciplinary action may be taken against an employee for failure to begin or complete an EAP program. Disciplinary action based on a violation of the town's drug and alcohol policy is not automatically suspended by an employee's participation in an EAP and may be imposed when warranted. (Ord. #350, Aug. 1994)

20-806. Confidentiality of test results. All information from an employee's or applicant's drug and alcohol test is confidential and only those

individuals with a need to know are to be informed of the test results. Disclosure of test results to any other person, agency, or organization is prohibited unless written authorization is obtained from the employee or applicant. The results of a positive drug test shall not be released until the results are confirmed. The records of unconfirmed positive test results and negative test results shall be destroyed by the testing laboratory. (Ord. #350, Aug. 1994)

20-807. Laboratory testing requirements. All drug and alcohol testing of employees and applicants shall be conducted at medical facilities or laboratories selected by the town. To be considered as a testing site, a medical facility or laboratory must submit in writing a description of the procedures that will be used to maintain test samples. This submission should be maintained by the town's personnel officer. Factors to be considered by the town in selecting a testing facility include:

- (1) Testing procedures which ensure privacy to employees and applicants consistent with the prevention of tampering;
- (2) Methods of analysis which ensure reliable test results, including the use of gas chromatography/mass spectrometry to confirm positive test results;
- (3) Chain-of-custody procedures which ensure proper identification, labeling, and handling of test samples; and
- (4) Retention and storage procedures which ensure reliable results on confirmatory test of original samples. (Ord. #350, Aug. 1994)

CHAPTER 9

ADULT-ORIENTED ESTABLISHMENT/MESSAGE REGISTRATION

SECTION

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20-901. Short title. This part shall be known and cited as the "Adult-Oriented Establishment/Massage Ordinance Registration" of 1999. (As added by Ord. #420, Oct. 1999)

20-902. Definitions. As used in this part, unless the context otherwise requires:

(1) "Adult bookstore" means a business which offers, as its principal or predominate stock or trade, sexually oriented material, devices, or paraphernalia or specified sexual activities, or any combination or form thereof, whether printed, filmed, recorded or live and which restricts or purports to restrict admission to adults or to any class of adults;

(2) "Adult cabaret" means an establishment which features as a principal use of its business, entertainers and/or waiters and/or bartenders who expose to public view of the patrons within such establishment, at any time, the bare female breast below a point immediately above the top of the areola,

human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material; including swim suits, lingerie, or latex covering. "Adult cabaret" includes a commercial establishment which features entertainment of an erotic nature including exotic dancers, strippers, male or female impersonators, or similar entertainers;

(3) "Adult entertainment" means any exhibition of any adult-oriented motion picture, live performance, display or dance of any type, which has as a significant or substantial portion of such performance, any actual or simulated performance of specified sexual activities of exhibition and viewing of specified anatomical areas, removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal service offered customers;

(4) "Adult mini-motion picture theater" means an enclosed building with a capacity of less than fifty (50) persons regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined in this section, for observation by patrons therein;

(5) "Adult motion picture theater" means an enclosed building with a capacity of fifty (50) or more persons regularly used for presenting material having as a dominant theme or presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas as defined below, for observation by patrons therein;

(6) "Adult-oriented establishment" includes, but is not limited to, an adult bookstore, adult motion picture theater, adult mini-motion picture establishment, adult cabaret, escort agency, sexual encounter center, massage parlor, rap parlor, sauna, or lingerie modeling and further "adult-oriented establishment" means any premises to which the public patrons or members are invited or admitted and which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, when such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. "Adult-oriented establishment" further includes, without being limited to, any adult entertainment studio or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, model studio, escort service, escort or any other term of like import;

(7) "Board" means the adult-oriented establishment board, or, if there is in existence in the town a massage registration board appointed by the mayor, such board may be substituted for the board;

(8) "Town," as used in this part, means the Town of Huntingdon;

(9) "Employee" means a person who performs any service on the premises of an adult-oriented establishment on a full-time, part-time, or

contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise, and whether or not such person is paid a salary, wage, or other compensation by the operator of such business. "Employee" does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises;

(10) "Entertainer" means any person who provides entertainment within an "adult-oriented establishment" as defined in this section, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee, escort or an independent contractor;

(11) "Escort" means a person who, for monetary consideration in the form of a fee, commission, salary or tip, dates, socializes, visits, consorts with, accompanies, or offers to date, socialize, visit, consort or accompany to social affairs, entertainment or places of amusement or within any place of public resort or within any private quarters of a place of public resort;

(a) "Service-oriented escort" is an escort which:

(i) Operates from an open office;

(ii) Does not employ or use an escort runner;

(iii) Does not advertise that sexual conduct will be provided to the patron or work for an escort bureau which so advertises; and

(iv) Does not offer or provide sexual conduct.

(b) "Sexually-oriented escort" is an escort which:

(i) Employs as an employee, agent, or independent contractor an escort bureau runner;

(ii) Works for, as an agent, employee, contractor, or is referred to a patron by a sexually-oriented escort bureau;

(iii) Advertises that sexual conduct will be provided, or works for, as an employee agent or independent contractor or is referred to a patron by an escort bureau which so advertises;

(iv) Solicits, offers to provide or does provide acts of sexual conduct to an escort patron, or accepts an offer or solicitation to provide acts of sexual conduct for a fee in addition to the fee charged by the escort bureau;

(v) Works as an escort without having a current valid permit issued under this part, in such person's possession at all times while working as an escort; or

(vi) Accepts a fee from a patron who has not first been delivered a contract.

(12) "Escort service" means a "person" as defined in this section, who, for a fee, commission, profit, payment or other monetary consideration, furnishes or offers to furnish escorts or provides or offers to introduce patrons to escorts;

(a) "Service-oriented escort bureau" is an escort bureau which:

- (i) Maintains an open office at an established place of business;
 - (ii) Employs or provides only escorts which possess valid permits issued under this part;
 - (iii) Does not use an escort bureau runner; and
 - (iv) Does not advertise that sexual conduct will be provided to a patron.
- (b) "Sexually-oriented escort bureau" is an escort bureau which:
- (i) Does not maintain an open office;
 - (ii) Employs as an employee, agent, or independent contractor, uses an escort bureau runner;
 - (iii) Advertises that sexual conduct will be provided, or that escorts which provide such sexual conduct will be provided, referred, or introduced to a patron;
 - (iv) Solicits, offers to provide or does provide acts of sexual conduct to an escort patron;
 - (v) Employs, contracts with or provides or refers escorts who do not possess valid permits issued under this part;
 - (vi) Does not deliver contracts to every patron or customer; or
 - (vii) Employs, contracts with a sexually-oriented escort or refers or provides to a patron, a sexually-oriented escort.
- (13) "Massage parlor" means an establishment or place primarily in the business of providing massage or tanning services where one (1) or more of the employees exposes to public view of the patrons within such establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material;
- (14) "Open office" means an office at the escort service from which the escort business is transacted and which is open to patrons or prospective patrons during all hours during which escorts are working; which is managed or operated by an employee, officer, director or owner of the escort service having authority to bind the service to escort and patron contracts and adjust patron and consumer complaints;
- (15) "Operator" means any person, partnership, or corporation operating, conducting or maintaining an adult-oriented establishment;
- (16) "Person" means an individual, partnership, limited partnership, firm, corporation or association;
- (17) "Rap parlor" means an establishment or place primarily in the business of providing nonprofessional conversation or similar service for adults;
- (18) "Sauna" means an establishment or place primarily in the business of providing:
- (a) A steam bath; or
 - (b) Massage services.

(19) "Sexual conduct" means the engaging in or the commission of an act of sexual intercourse, oral-genital contact, or the touching of the sexual organs, pubic region, buttocks or female breast of a person for the purpose of arousing or gratifying the sexual desire of another person;

(20) "Sexual encounter center" means a business or commercial enterprise that, as one (1) of its primary business purposes, offers for any form of consideration:

(a) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(b) Physical contact between male and female persons and/or persons of the same sex when one (1) or more of the persons exposes to view of the persons within such establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material;

(21) "Sexual gratification" means "sexual conduct" as defined in this part;

(22) "Sexual stimulation" means to excite or arouse the prurient interest or to offer or solicit acts of "sexual conduct" as defined in this part;

(23) "Specified anatomical areas" means:

(a) Less than completely and opaquely covered:

(i) Human genitals;

(ii) Pubic region;

(iii) Buttocks; and

(iv) Female breasts below a point immediately above the top of the areola; and

(b) Human male genitals in a discernibly turgid state, even if completely opaquely covered;

(24) "Specified criminal acts" means the following criminal offenses as defined by Tennessee Code Annotated:

(a) Aggravated rape;

(b) Rape;

(c) Rape of a child;

(d) Aggravated sexual battery;

(e) Sexual battery by an authority figure;

(f) Sexual battery;

(g) Statutory rape;

(h) Public indecency;

(i) Prostitution;

(j) Promoting prostitution;

(k) Distribution of obscene materials;

(l) Sale, loan or exhibition to a minor of material harmful to minors;

(m) The display for sale or rental of material harmful to minors;

- (n) Sexual exploitation of a minor;
- (o) Aggravated sexual exploitation of a minor; and
- (p) Especially aggravated sexual exploitation of a minor;
- (25) "Specified sexual activities" means:
 - (a) Human genitals in a state of sexual stimulation or arousal;
 - (b) Acts of human masturbation, sexual intercourse or sodomy;
 or
 - (c) Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts; and
- (26) "Specified services" means massage services, private dances, private modeling, acting as an "escort" as defined in this part, and any other live "adult entertainment" as defined in this part. (As added by Ord. #420, Oct. 1999)

20-903. Adult-oriented establishment--massage registration board. (1) There is created an adult-oriented establishment/massage registration board.

- (2) The board shall consist of five (5) members appointed by the mayor.
- (3) The terms of the board members shall be coextensive with the terms of the massage registration board with no member serving after the expiration of the member's term or removal from the massage registration board. The terms of the board members shall be for four (4) years.
- (4) A majority of the members to which the board is entitled shall constitute a quorum.
- (5) The board shall serve without compensation but the members shall receive their actual expenses for attending adult-oriented establishment board meetings.
- (6) The board shall select a chair from among its members and the chair shall notify interested persons and members of board meetings.
- (7) The board shall meet as often as required to carry out the provisions of this part. (As added by Ord. #420, Oct. 1999)

20-904. License to operate--required. (1) Except as provided in subsection (5) from and after November 1, 1999, of this part, no adult-oriented establishment shall be operated or maintained without first obtaining a license to operate issued by the town adult-oriented establishment/massage registration board.

- (2) A license may be issued only for one (1) adult-oriented establishment located at a fixed and certain place. Any person, partnership or corporation which desires to operate more than one (1) adult-oriented establishment must have a license for each. No building, premises, structure or other facility that contains any adult-oriented establishment shall contain any other kind of adult-oriented establishment.

(3) No license or interest in a license may be transferred to any person, partnership or corporation.

(4) It is unlawful for any entertainer, employee, escort or operator to knowingly work in or about or to knowingly perform any service directly related to or at the request of the operation of any unlicensed adult-oriented establishment or escort service.

(5) All existing adult-oriented establishments at the time of the passage of this part must submit an application for a license within one hundred twenty (120) days of November 1, 1999. If a license is not issued within such one hundred twenty-day period, then such existing adult-oriented establishment shall cease to operate.

(6) No license shall be issued by the board unless the applicant certifies, by proof satisfactory to the board, that the applicant has satisfied the rules, regulations and provisions of the applicable zoning requirements in the town. Any zoning requirement shall be in addition to and not an alternative to any requirement of this legislation. (As added by Ord. #420, Oct. 1999)

20-905. License to operate--application. (1) Any person, partnership, or corporation desiring to secure a license shall make application to the adult-oriented establishment board. A copy of the application shall be distributed promptly to the town police department for the purposes hereinafter provided.

(2) The application for a license shall be upon a form provided by the board. An applicant for a license shall furnish the following information under oath:

(a) Name and address, including all aliases;

(b) Written proof that the individual is at least eighteen (18) years of age;

(c) The business, occupation or employment of the applicant in an adult-oriented establishment for five (5) years immediately preceding the date of the application;

(d) The adult-oriented establishment or similar business license history of the applicant; whether such applicant, in previously operating in this or any other county, city, or state under license, has had such license revoked or suspended, the reason therefor, and the business activity or occupation subject to such action of suspension or revocation;

(e) Any conviction for or plea of nolo contendere to a specified criminal act as defined in Tennessee Code Annotated, § 7-51-1102(24);

(f) The address of the adult-oriented establishment to be operated by the applicant;

(g) If the applicant is a corporation, the application shall specify the name, address, and telephone number of the corporation, the date and the state of incorporation, the name and address of the registered agent for service of process of the corporation, and the names and addresses of

the officers and directors of the corporation, and the name and addresses of any persons holding fifty percent (50%) or more of the stock of the corporation; if the applicant is a partnership, the application shall specify the name and address of the partnership, the name and address of all general partners of the partnership; if the partnership is a limited partnership, the application shall specify the name and address of all general partners who have a controlling interest in the partnership; and

(h) A statement by the applicant that the applicant is familiar with the provisions of this legislation and is in compliance with them.

(3) Within ten (10) days of receiving the results of the investigation conducted by the board and/or the police or sheriff's department, the board shall notify the applicant that the application is granted, denied or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigation, the board shall advise the applicant in writing whether the application is granted or denied.

(4) Failure or refusal of the applicant to give any information relevant to the investigation of the application or the applicant's refusal or failure to appear at any reasonable time and place for examination under oath regarding the application or the applicant's refusal to submit to or cooperate with any investigation required by this part constitutes an admission by the applicant that the applicant is ineligible for such license and shall be grounds for denial thereof by the board. (As added by Ord. #420, Oct. 1999, and amended by Ord. #424, Jan. 2000)

20-906. License to operate--qualifications. To receive a license to operate an adult-oriented establishment, an applicant must meet the following standards:

(1) If the applicant is an individual:

(a) The applicant shall be at least eighteen (18) years of age;

(b) The applicant shall not have had a license revoked within five (5) years immediately preceding the date of the application;

(c) The applicant shall not have been convicted of or pleaded nolo contendere to any violation of this part within five (5) years immediately preceding the date of the application; and

(d) The applicant shall not have been convicted of a "specified criminal act," as defined in Tennessee Code Annotated, § 7-51-1102, for which:

(i) Less than two (2) years have elapsed since the date of conviction if the conviction is for a misdemeanor offense;

(ii) Less than five (5) years have elapsed since the date of conviction if the conviction is for a felony offense;

- (iii) Less than five (5) years have elapsed since the date of conviction for two (2) or more misdemeanor offenses occurring within any twelve-month period;
 - (iv) The fact that a conviction is being appealed shall have no effect on disqualification of the applicant;
 - (2) If the applicant is a corporation:
 - (a) All officers, directors and stockholders required to be named under Tennessee Code Annotated, § 7-51-1105(b) shall be at least eighteen (18) years of age;
 - (b) No officer, director, and stockholder required to be named under Tennessee Code Annotated, § 7-51-1105(b) shall have had an adult-oriented establishment license revoked within five (5) years immediately preceding the date of the application;
 - (c) No officer, director or stockholder required to be named under Tennessee Code Annotated, § 7-51-1105(b) shall have been convicted of or pleaded nolo contendere to any violation of this part within five (5) years immediately preceding the date of the application;
 - (d) The applicant or officer, director or stockholder required to be named under Tennessee Code Annotated, § 7-51-1105(b) shall not have been convicted of a "specified criminal act," as defined in Tennessee Code Annotated, § 7-51-1102, for which:
 - (i) Less than two (2) years have elapsed since the date of conviction if the conviction is for a misdemeanor offense;
 - (ii) Less than five (5) years have elapsed since the date of conviction if the conviction is for a felony offense;
 - (iii) Less than five (5) years have elapsed since the date of conviction for two (2) or more misdemeanor offenses occurring within any twelve-month period;
 - (iv) The fact that a conviction is being appealed shall have no effect on disqualification of the applicant;
 - (3) If the applicant is a partnership, joint venture or any other type of organization where two (2) or more persons have a financial interest:
 - (a) All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least eighteen (18) years of age;
 - (b) All persons having a financial interest in the partnership, joint venture or other type of organization shall not have had a license revoked within five (5) years immediately preceding the date of the application;
 - (c) No applicant or person having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of or pleaded nolo contendere to any violation of this part within five (5) years immediately preceding the date of the application; and

(d) The applicant or any person having a financial interest required to be disclosed shall not have been convicted of a "specified criminal act," as defined in Tennessee Code Annotated, § 7-51-1102, for which:

(i) Less than two (2) years have elapsed since the date of conviction if the conviction is for a misdemeanor offense;

(ii) Less than five (5) years have elapsed since the date of conviction if the conviction is for a felony offense;

(iii) Less than five (5) years have elapsed since the date of conviction for two (2) or more misdemeanor offenses occurring within any twelve-month period;

(iv) The fact that a conviction is being appealed shall have no effect on disqualification of the applicant;

(4) No license shall be issued unless the board or police department has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the board no later than twenty (20) days after the date of the application.

(5) An applicant who has been convicted of any "specified criminal activities" may not be denied a permit based on those convictions once the time period required in this section has elapsed. (As added by Ord. #420, Oct. 1999)

20-907. Inspections--notice of results. (1) In order to effectuate the provisions of this part, the board, its authorized representative or director of safety is empowered to conduct investigations of persons engaged in the operation of any adult-oriented establishment and inspect the license of the operators and establishment for compliance. Refusal of an operation or establishment to permit inspections shall be grounds for revocation, suspension or refusal to issue licenses provided by this part.

(2) Within ten (10) days of receiving the results of the investigation, the board shall notify the applicant that the application is granted, denied or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days, unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigation, the board shall advise the applicant in writing whether the application is granted or denied.

(3) If an additional investigation is held, upon the expiration of the thirtieth day, the application shall be permitted to begin operating the business for which the license is sought, unless or until the board or its authorized representative notifies the applicant of a denial of the application and states the reasons for that denial. (As added by Ord. #420, Oct. 1999)

20-908. Injunctions--contempt. (1) The board has the power and authority to enter into any court of the State of Tennessee having proper jurisdiction to seek an injunction against any person or adult-oriented establishment not in compliance with the provisions of this part, and is further

empowered to enter into any such court to enforce the provisions of this part in order to ensure compliance with such provisions.

(2) Any violation of an injunction obtained under this section is contempt with a fine of fifty dollars (\$50.00).

(3) Each day in contempt of such injunction is considered a separate offense.

(4) The circuit, chancery, or criminal courts of this state and the chancellors and judges thereof shall have full power, authority, and jurisdiction, upon application by sworn detailed petition filed by the board within their respective jurisdictions, to issue any and all proper restraining orders, temporary and permanent injunctions, and any other writs and processes appropriate to carry out and enforce this part. (As added by Ord. #420, Oct. 1999)

20-909. Revocation, suspension or annulment of licenses. (1) The board shall revoke, suspend or annul a license for any of the following reasons:

(a) Discovery that false or misleading information or data were given on any application or material facts were omitted from any application;

(b) The operator or entertainer, or any employee of the operator, violates any provision of this part or any rule or regulation adopted by the board pursuant to this part; provided, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a license suspension of thirty (30) days if the board shall find that the operator had no actual or constructive knowledge of such violation and could not, by the exercise of due diligence, have had such actual or constructive knowledge;

(c) The operator becomes ineligible to obtain a license;

(d) Any cost or fee required to be paid by this part is not paid;

(e) Any intoxicating liquor or malt beverage is served or consumed on the premises of the adult-oriented establishment;

(f) An operator employs an employee who does not have a permit or provides space on the premises, whether by lease or otherwise, to an independent contractor who performs or works as an entertainer without a permit;

(g) Any operator, employee or entertainer sells, furnishes, gives or displays, or causes to be sold, furnished, given or displayed to any minor any adult-oriented entertainment or adult-oriented material;

(h) Any operator, employee or entertainer denies access of law enforcement personnel to any portion of the licensed premises wherein adult-oriented entertainment is permitted or to any portion of the licensed premises wherein adult-oriented material is displayed or sold;

(i) Any operator fails to maintain the licensed premises in a clean, sanitary and safe condition;

(j) Any operator, employee or entertainer is convicted of a "specified criminal act," as defined in Tennessee Code Annotated, § 9-102, provided that such violation occurred on the licensed premises.

(2) (a) Notwithstanding anything herein to the contrary, before revoking or suspending any license or permit, the chair shall give the license holder or permit holder not less than ten (10) nor more than twenty (20) days' written notice of the charges against such license holder or permit holder and of the revocation of such license or permit, or of the period of time such license or permit is to be suspended; such notice shall also advise the license holder or permit holder of the license holder's or permit holder's right to request a hearing before the board. In the event the license holder or permit holder does not request in writing a hearing before the board within the time set forth in such notice, the suspension or revocation shall be effective beginning the date set forth in such notice.

(b) If the license holder or permit holder desires to request a hearing before the board to contest the suspension or revocation, such request shall be made in writing to the town mayor within ten (10) days of the license holder's or permit holder's receipt of the notification from the board. If the license holder or permit holder timely requests such a hearing, the effective date of a suspension or hearing shall be stayed pending the final outcome of judicial proceedings to determine whether such license or permit has been properly revoked or suspended under the law.

(c) If the license holder or permit holder timely requests such a hearing, a public hearing shall be held within fifteen (15) days of the mayor's receipt of such request before the board at which time the license holder or permit holder may present evidence contrary to the provisions of this part. The board shall hear evidence concerning the basis for such suspension or revocation and shall affirm or reverse the suspension or revocation at the conclusion of such hearing; any such hearing shall be concluded no later than twenty-two (22) days after the license holder's or permit holder's receipt of the notification of the suspension or revocation, unless an extension beyond such time period is requested by the license holder or permit holder and granted by the board.

(3) If the board affirms the suspension or revocation, the licensee may institute suit for declaratory judgment in the Chancery Court for Carroll County within five (5) days of the date of any such affirmation seeking an immediate judicial determination of whether such license or permit has been properly revoked or suspended under the law.

(4) Any operator whose license is revoked shall not be eligible to receive a license for five (5) years from the date of revocation.

(5) The applicant shall be entitled to judicial determination of the issues within two (2) days after joinder of issue, and a decision shall be rendered by the court within two (2) days of the conclusion of the hearing.

(6) The board shall have the burden of showing that a revocation or suspension of a license under this section is not arbitrary or capricious. (As added by Ord. #420, Oct. 1999)

20-910. Hearings on disciplinary actions--judicial review--prohibition on operation of business. (1) As used in this section, "application" means:

- (a) An application for a license;
- (b) An application for a permit;
- (c) An application for a license renewal; and
- (d) An application for a permit renewal.

(2) Whenever an application is denied, the chair shall notify the applicant in writing of the reasons for such action; such notice shall also advise the applicant of the applicant's right to request a hearing before the board. If the applicant desires to request a hearing before the board to contest the denial of an application, such request shall be made in writing to the mayor within ten (10) days of the applicant's receipt of the notification of the denial of the application. If the applicant timely requests such a hearing, a public hearing shall be held within fifteen (15) days of the mayor's receipt of such request before the board, at which time the applicant may present evidence as to why the application should not be denied. The board shall hear evidence concerning the basis for denial of the application and shall affirm or reverse the denial of an application at the conclusion of such hearing; any such hearing shall be concluded no later than twenty-two (22) days after the applicant's receipt of notification of denial of an application, unless an extension beyond such time period is requested by the applicant and granted by the board.

(3) If the board affirms the denial of an application, the applicant shall institute suit for declaratory judgment in the Chancery Court for Carroll County within five (5) days of the date of any such denial seeking an immediate judicial determination of whether such application has been properly denied under the law.

(4) The applicant shall be entitled to judicial determination of the issues within two (2) days after the joinder of issue, and a decision shall be rendered by the court within two (2) days of the conclusion of the hearing.

(5) The board shall have the burden of showing that a denial of a license under this section is not arbitrary or capricious. (As added by Ord. #420, Oct. 1999)

20-911. Termination and renewal of licenses--applications--fees.

(1) Every license issued under this part will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the board. The application for renewal must be filed not later than sixty (60) days before the license

expires. The application for renewal shall be filed in triplicate with and dated by the board. A copy of the application for renewal shall be distributed promptly by the chair of the board to the applicable director of public safety. The application for renewal shall contain such information and data, given under oath or affirmation, as may be required by the board, but not less than the information contained in the original application.

(2) A license renewal fee of seventy-five and no/100 (\$75.00) dollars shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of fifty dollars (\$50.00) shall be assessed against the applicant who files for a renewal less than thirty (30) days before the license expires. If the application is denied, one half ($\frac{1}{2}$) of the fee shall be returned.

(3) If the police department is aware of any information bearing on the operator's qualifications, the information shall be filed in writing with the board not later than ten (10) days after the date of the application for renewal.

(4) Every permit issued under this part will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before an entertainer is allowed to provide entertainment in an adult-oriented establishment in the following calendar year. Any entertainer desiring to renew a permit shall make application to the board. The application for renewal must be filed not later than thirty (30) days before the permit expires. The application for renewal shall be filed in triplicate with and dated by the board. A copy of the application for renewal shall be distributed promptly by the board to the police chief. The application for renewal shall be upon a form provided by the board and shall contain such information and data, given under oath or affirmation, as may be required by the board.

(5) A permit renewal fee of ten dollars (\$10.00) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of five dollars (\$5.00) shall be assessed against the applicant who files for renewal less than thirty (30) days before the license expires. If the application is denied, one half ($\frac{1}{2}$) of the fee shall be returned.

(6) If the police department is aware of any information bearing on the entertainer's qualifications, that information shall be filed in writing with the board not later than ten (10) days after the date of the application for renewal.

(7) Notwithstanding anything herein to the contrary, any application for renewal of a license or for renewal for a permit shall be handled, investigated, and approved or denied within the same time periods as those established in this part for original license applications and permit applications. In the event a license renewal application or permit renewal application is denied, the applicant shall have all rights of appeal to the board as set forth in Tennessee Code Annotated, § 7-51-1110. (As added by Ord. #420, Oct. 1999, and amended by Ord. #424, Jan. 2000)

20-912. Prohibited hours of operation—hours open for inspection.

The public portion of all adult-oriented establishments shall be open to

inspection at all reasonable times by the applicable police department or such other persons as the board may designate. (As added by Ord. #420, Oct. 1999)

20-913. Duties and responsibilities of operators, entertainers, and employees. (1) The operator shall maintain a register of all employees, showing the name, the aliases used by the employee, home address, age, birth date, sex, height, weight, color of hair and eyes, telephone number, social security number, driver license number, date of employment and termination, and duties of each employee, and such other information as may be required by the board. The above information on each employee shall be maintained in the register on the premises for a period of three (3) years following termination.

(2) The operator shall make the register of employees available immediately for inspection by the board and/or police department upon demand of a member of the board or police department at all reasonable times.

(3) Every act or omission by an employee constituting a violation of the provisions of this part shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

(4) An operator shall be responsible for the conduct of all employees while on the licensed premises, and any act or omission of any employee constituting a violation of the provisions of this part shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.

(5) No employee of an adult-oriented establishment shall allow any minor to loiter around or to frequent an adult-oriented establishment or to allow any minor to view adult entertainment as herein defined.

(6) Every adult-oriented establishment shall be physically arranged in such a manner that the entire interior portion of the booths, cubicles, rooms or stalls, wherein adult entertainment is provided, shall be visible from the common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, partitions, drapes, or any other obstruction whatsoever.

(7) The operator shall be responsible for and shall provide that any room or area used for the purpose of viewing adult-oriented motion pictures or other types of live adult entertainment shall be readily accessible at all times and shall be continuously opened to view in its entirety.

(8) The license shall be conspicuously displayed in the common area of the premises at all times.

(9) A sign shall be conspicuously displayed in the common area of the premises, and shall read as follows: "This Adult-Oriented Establishment is Regulated by Tennessee Code Annotated, title 7, chapter 51, sections 1101 through 1120 and title 20, chapter 9, §§ 20-901--20-918. Entertainers are:

- (a) Not permitted to engage in any type of sexual conduct;
- (b) Not permitted to expose their sex organs;
- (c) Not permitted to demand or collect all or any portion of a fee for entertainment before its completion;
- (d) Not permitted to appear in a state of full nudity."

(10) The permit shall be kept by an employee, entertainer, or escort so that it is readily available for display immediately upon request of a customer, any member of such town police department, and board member, or any person designated by the board. (As added by Ord. #420, Oct. 1999)

20-914. Prohibited activities. (1) No operator, entertainer or employee of an adult-oriented establishment shall permit to be performed, offer to perform, perform or allow, patrons to perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia.

(2) No operator, entertainer or employee of an adult-oriented establishment shall encourage or permit any person upon the premises to touch, caress or fondle the breasts, buttocks, anus or genitals of any operator, entertainer or employee.

(3) No entertainer, employee, or customer shall be permitted to have any physical contact with any other on the premises during any performance and all performances shall only occur upon a stage at least eighteen inches (18") above the immediate floor level and removed at least six feet (6') from the nearest entertainer, employee, and/or customer.

(4) (a) No employee or entertainer, while on the premises of an adult-oriented establishment, may:

- (i) Engage in sexual intercourse;
- (ii) Engage in deviant sexual conduct;
- (iii) Appear in a state of nudity;
- (iv) Fondle such person's own genitals or those of another.

(b) For the purpose of this section, "nudity" means the showing of the human male or female genitals or pubic area with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

(5) If the license holder operates an escort bureau, such bureau shall not be operated as a "sexually-oriented escort bureau" as defined in this part.

(6) No permit holder of an escort bureau shall conduct oneself as a "sexually-oriented escort" as defined in this part.

(7) No license holder shall advertise that such license holder offers "sexual stimulation" or "sexual gratification" as defined in this part. (As added by Ord. #420, Oct. 1999)

20-915. Entertainers or escorts--permits--required. No person shall be an entertainer, employee, or escort in an adult-oriented establishment without a valid permit issued by the board. (As added by Ord. #420, Oct. 1999)

20-916. Entertainers or escorts--permits--application. (1) Any person desiring to secure a permit shall make application to the board. The application shall be filed in triplicate with and dated by the board. A copy of the application shall be distributed promptly by the board to the police department.

(2) The application for a permit shall be upon a form provided by the board. An applicant for a permit shall furnish the following information under oath:

- (a) Name and address, including all aliases;
- (b) Written proof that the individual is at least eighteen (18) years of age;
- (c) The applicant's height, weight, color of eyes and hair;
- (d) The adult-oriented establishment or similar business permit history of the applicant; whether such person, in previously operating in this or any other city or state under permit, has had such permit revoked or suspended, the reason therefor, and the business activity or occupation subject to such action of suspension or revocation;
- (e) Any conviction for or plea of nolo contendere to "a specified criminal act" as defined in Tennessee Code Annotated, § 7-51-1102(24);
- (f) Two (2) portrait photographs at least two inches by two inches (2" x 2") of the applicant; and
- (g) A statement by the applicant that the applicant is familiar with the provisions of this part and is in compliance with them.

(3) Within ten (10) days of receiving the results of the investigation conducted by the board or police department, the board shall notify the applicant that the applicant's application is granted, denied or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigations, the board shall advise the applicant in writing whether the application is granted or denied.

(4) If an additional investigation is held, upon the expiration of the thirtieth day, the applicant shall be permitted to operate the business for which the license is sought, unless or until, the board or its authorized representative notifies the applicant of a denial of the application and states the reasons for that denial.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or the applicant's refusal or failure to appear at any reasonable time and place for examination under oath regarding the application, or the applicant's refusal to submit to or cooperate with any investigation required by this part, constitutes an admission by the applicant

that the applicant is ineligible for such permit, and is grounds for denial thereof by the board. (As added by Ord. #420, Oct. 1999)

20-917. Entertainers or escorts--permits--qualifications--investigations. (1) To receive a permit as an entertainer or escort, an applicant must meet the following standards:

- (a) The applicant shall be at least eighteen (18) years of age;
- (b) The applicant shall not have had a permit revoked within two (2) years immediately preceding the date of the application;
- (c) The applicant shall not have been convicted of a "specified criminal act," as defined in Tennessee Code Annotated, § 7-51-1102, for which:

- (i) Less than two (2) years have elapsed since the date of conviction if the conviction is for a misdemeanor offense;

- (ii) Less than five (5) years have elapsed since the date of conviction if the conviction is for a felony offense;

- (iii) Less than five (5) years have elapsed since the date of conviction for two (2) or more misdemeanor offenses occurring within any twelve-month period;

- (iv) The fact that a conviction is being appealed shall have no effect on disqualification of the applicant;

- (d) An applicant who has been convicted of any specified criminal activities may not be denied a permit based on those convictions once the time period required in subdivision (1)(c) has elapsed.

(2) No permit shall be issued until the board or police department has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the board no later than thirty (30) days after the date of the application. (As added by Ord. #420, Oct. 1999)

20-918. Entertainers and escorts--permits--fees. (1) A license fee of a non-refundable two hundred dollars (\$200.00) shall be submitted with the initial application for a license.

(2) A permit fee of a non-refundable seventy-five dollars (\$75.00) shall be submitted with the application for a permit. (As added by Ord. #420, Oct. 1999, and amended by Ord. #424, Jan. 2000)

20-919. Penalties for violation of part. (1) Any person, partnership or corporation found to have violated this part shall be fined a definite sum not exceeding fifty dollars (\$50.00) and shall result in the suspension or revocation of any license.

(2) Each violation of this part shall be considered a separate offense, and any violation continuing more than one (1) hour of time shall be considered a separate offense for each hour of violation.

(3) At the boards discretion, and in the event of a violation by an employee or entertainer not attributed to the licensee, the board may assess a civil penalty or forfeiture in lieu of license forfeiture in an amount not to exceed one thousand five hundred (\$1,500) per violation as determined by (2). (As added by Ord. #420, Oct. 1999)

20-920. Referendum on adoption of part. This part shall be local in effect and shall become effective upon a two-thirds (2/3) vote of the town legislative body adopting this part. (As added by Ord. #420, Oct. 1999)

20-921. Part not exclusive or preemptory of local laws or regulations. Nothing in this part shall pre-empt or prevent the town in this state from enacting and enforcing other lawful and reasonable restrictions, regulations, licensing, zoning, and other criminal, civil or administrative provisions concerning the location, configuration, code compliance, or other business operations or requirements of adult-oriented establishments and sexually-oriented businesses. (As added by Ord. #420, Oct. 1999)

20-922. Criminal conviction record check. (1) The Director of Safety for the Town of Huntingdon, on behalf of the Town of Huntingdon, the issuer of the license or permit as to operators and entertainers, shall upon notification or receipt of application,

(a) Conduct a criminal conviction record check through such computer terminals available to it or other means of access to criminal convictions that are maintained by the town, the county, the Tennessee Bureau of Investigation, and the Federal Bureau of Investigation; and

(b) Forward the applicant's fingerprints to the Tennessee Bureau of Investigation which shall verify the identity of the applicant and shall conduct its own criminal conviction record check itself and forward the results of that investigation to the requesting town.

(2) If no disqualifying criminal conviction is identified by the town, or by the Tennessee Bureau of Investigation, the Tennessee Bureau of Investigation shall forward a set of the applicant's fingerprints to the Federal Bureau of Investigation for verification of the applicant's identity and request the Federal Bureau of Investigation to conduct a criminal conviction record check investigation using the fingerprints.

(3) The results of criminal conviction record investigations shall be used for the limited purpose of determining the applicant's qualifications for a license to operate an adult-oriented establishment or for a permit to perform as an entertainer at an adult-oriented establishment.

(4) Fingerprints shall be submitted on authorized fingerprint cards or by electronic, machine-readable data, or other means approved by the Tennessee Bureau of Investigation and the Federal Bureau of Investigation.

(5) Any cost incurred in conducting such criminal conviction records investigations shall be paid by the town making the request of the Tennessee Bureau of Investigation or the Federal Bureau of Investigation. The town may include such cost as part of any fee it charges for processing the applicant's license or permit. The cost of compliance for the above shall be in addition to the fees set forth in § 20-918. [Acts 2000, ch. 897, § 1.] (As added by Ord. #439, Jan. 2001)

CHAPTER 10

ADULT ORIENTED ESTABLISHMENTS

SECTION

20-1001. Definitions.

20-1002. Hours of operation.

20-1003. Physical design of premises.

20-1004. Penalty.

20-1001. Definitions. As used in this part, unless the context otherwise requires:

(1) "Adult" means a person who has attained eighteen (18) years of age;

(2) "Adult cabaret" means a cabaret which features topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers;

(3) "Adult entertainment" means any exhibition of any adult-oriented motion picture, live performance, display or dance of any type, which has a significant or substantial portion of such performance, any actual or simulated performance of specified sexual activities, including removal of articles of clothing or appearing unclothed;

(4) "Adult-oriented establishment" means any commercial establishment, business or service, or portion thereof, which offers, as its principal or predominant stock or trade, sexually-oriented material, devices, or paraphernalia or specified sexual activities, or any combination or form thereof, whether printed, filmed, recorded or live and which restricts or purports to restrict admission to adults or to any class of adults. "Adult-oriented establishment" includes, but is not limited to:

(a) "Adult book stores," which means any corporation, partnership or business of any kind which has as its principal or predominant stock or trade, books, magazines or other periodicals and which offers, sells, provides or rents for a fee:

(i) Any sexually-oriented material which is available for viewing by patrons on the premises by means of the operation of movie machines or slide projectors; or

(ii) Any sexually-oriented material which has a substantial portion of its contents devoted to the pictorial depiction of sadism, masochism or bestiality; or

(iii) Any sexually-oriented material which has as its principal theme the depiction of sexual activity by, or lascivious exhibition of, the uncovered genitals, pubic region or buttocks of children who are or appear to be under eighteen (18) years of age;

(b) "Adult motion picture theaters," which means an enclosed building used for presenting film presentations which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities for observation by patrons therein; and

(c) "Adult shows" or "adult peep shows," which includes all adult shows, exhibitions, performances or presentations which contain acts or depictions of specified sexual activities;

(5) "Bestiality" means sexual activity, actual or simulated, between a human being and an animal;

(6) "Masochism" means sexual gratification achieved by a person through, or the association of sexual activity with, submission or subjection to physical pain, suffering, humiliation, torture or death;

(7) "Person" means an individual, partnership, limited partnership, firm, corporation or association;

(8) "Sadism" means sexual gratification achieved through, or the association of sexual activity with, the infliction of physical pain, suffering, humiliation, torture or death upon another person or animal;

(9) "Specified sexual activities" means activities, services or performances that include the following sexual activities and/or the exhibition of the following anatomical areas:

(a) Human genitals in a state of sexual stimulation or arousal;

(b) Acts of human masturbation, sexual intercourse, sodomy, cunnilingus, fellatio or any excretory function, or representation thereof; or

(c) Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts; and

(10) "Sexually-oriented material" means any book, article, magazine, publication or written matter of any kind, drawing, etching, painting, photograph, motion picture film or sound recording, which depicts sexual activity, actual or simulated, involving human beings or human beings and animals, or which exhibits uncovered human genitals or pubic region in a lewd or lascivious manner or which exhibits human male genitals in a discernibly turgid state, even if completely covered. (As added by Ord. #420, Oct. 1999)

20-1002. Hours of operation (1) No adult-oriented establishment pursuant to 20-9-201 et seq. or this part shall open to do business before eight o'clock A.M. (8:00 A.M.), Monday through Saturday; and no such establishment shall remain open after twelve o'clock (12:00) midnight, Monday through Saturday. No adult-oriented establishment shall be open for business on any Sunday or a legal holiday as designated in Tennessee Code Annotated, § 15-1-101.

(2) A local ordinance, resolution or private act may establish opening hours for adult-oriented establishments which are later than eight o'clock A.M.

(8:00 A.M.) and closing hours which are earlier than twelve o'clock (12:00) midnight, but in no event may such ordinances, resolutions or private acts extend the opening hours to earlier than eight o'clock A.M. (8:00 A.M.) or the closing hours to later than twelve o'clock (12:00) midnight. (As added by Ord. #420, Oct. 1999)

20-1003. Physical design of premises. No person shall own, operate, manage, rent, lease or exercise control over any commercial building, structure, premises or portion or part thereof, which is an adult-oriented establishment and which contains:

(1) Partitions between subdivisions of a room, portion or part of a building, structure or premises having an aperture which is designed or constructed to facilitate sexual activity between persons on either side of the partition; or

(2) Booths, stalls, or partitioned portions of a room or individual rooms, used for the viewing of motion pictures or other forms of entertainment, having doors, curtains or portal partitions, unless such booths, stalls, partitioned portions of a room or individual rooms so used shall have at least one (1) side open to adjacent public rooms so that the area inside is visible to persons in adjacent public rooms. Such areas shall be lighted in a manner that the persons in the areas used for viewing motion pictures or other forms of entertainment are visible from the adjacent public rooms, but such lighting shall not be of such intensity as to prevent the viewing of motion pictures or other offered entertainment. (As added by Ord. #420, Oct. 1999)

20-1004. Penalty. A first offense for a violation of this part is a Class B misdemeanor, punishable only by a fine of five hundred dollars (\$500); and a second or subsequent such offense is a Class A misdemeanor which shall be prosecuted in the General Sessions Court of Carroll County. (As added by Ord. #420, Oct. 1999)

ORDINANCE NO. 399**AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE TOWN OF HUNTINGDON TENNESSEE.**

WHEREAS some of the ordinances of the Town of Huntingdon are obsolete, and

WHEREAS some of the other ordinances of the town are inconsistent with each other or are otherwise inadequate, and

WHEREAS the Board of Mayor and Aldermen of the Town of Huntingdon, Tennessee, has caused its ordinances of a general, continuing, and permanent application or of a penal nature to be codified and revised and the same are embodied in a code of ordinances known as the "Huntingdon Municipal Code," now, therefore:

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF HUNTINGDON, THAT:

Section 1. Ordinances codified. The ordinances of the town of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, both inclusive, are ordained and adopted as the "Huntingdon Municipal Code," hereinafter referred to as the "municipal code."

Section 2. Ordinances repealed. All ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code are hereby repealed from and after the effective date of said code, except as hereinafter provided in Section 3 below.

Section 3. Ordinances saved from repeal. The repeal provided for in Section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the town or authorizing the issuance of any bonds or other evidence of said town's indebtedness; any budget ordinance; any contract or obligation assumed by or in favor of said town; any ordinance establishing a social security system or providing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed,

direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the town; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the town.

Section 4. Continuation of existing provisions. Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

Section 5. Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than five hundred dollars (\$500.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."¹

When a civil penalty is imposed on any person for violating any provision of the municipal code and such person defaults on payment of such penalty, he may be required to perform hard labor, within or without the workhouse, to the extent that his physical condition shall permit, until such

¹State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, § 40-24-101 et seq.

civil penalty is discharged by payment, or until such person, being credited with such sum as may be prescribed for each day's hard labor, has fully discharged said penalty.

Each day any violation of the municipal code continues shall constitute a separate civil offense.

Section 6. Severability clause. Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 7. Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The board of mayor and aldermen, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to town officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

Section 8. Construction of conflicting provisions. Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 9. Code available for public use. A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

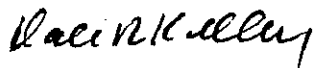
Section 10. Date of effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

BE IT FURTHER ORDAINED by said Council that pursuant to § 2.08(d) of the town's charter a summary of this ordinance shall be published in a local newspaper of general circulation in the town within ten days of its passage and approval, the welfare of the town requiring it.

PASSED ON FIRST READING APRIL 14TH, 1998.

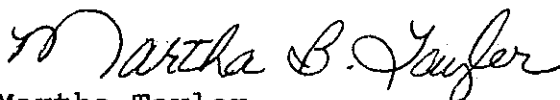
PASSED ON SECOND AND FINAL READING APRIL 28TH, 1998.

APPROVED:



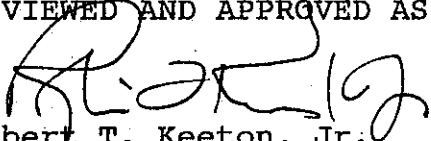
Dale R. Kelley
Mayor

ATTESTED:



Martha Taylor
Town Recorder

REVIEWED AND APPROVED AS TO LEGAL FORM AND CONTENT:



Robert T. Keeton, Jr.
Town Attorney