

TITLE 20

MISCELLANEOUS

CHAPTER

1. JOINT CIVIL DEFENSE ORGANIZATION.
2. LITTER CONTROL LAW.
3. FAIR HOUSING REGULATIONS.
4. TELEPHONE SYSTEM.
5. TITLE VI COMPLIANCE MANUAL.
6. PROHIBITION AGAINST USING TOBACCO PRODUCTS IN PUBLIC FACILITIES.

CHAPTER 1

JOINT CIVIL DEFENSE ORGANIZATION

SECTION

- 20-101. DeKalb County Civil Defense Organization created.
- 20-102. Authority and responsibilities.
- 20-103. Office of director, his authority and responsibility.
- 20-104. DeKalb County Civil Defense Corps. created.
- 20-105. No municipal or private liability.
- 20-106. Expenses of civil defense.

20-101. DeKalb County Civil Defense Organization created. There is hereby created the DeKalb County Civil Defense Organization, which shall be a joint operation of the City of Smithville and the County of DeKalb for the purpose of organizing and directing civil defense for the citizens of the entire county. All other civil defense agencies within the corporate limits of DeKalb County, shall be considered as a total part of the county-wide civil defense emergency resources and when such agencies operate out of its corporate limits it shall be at the direction of, subordinate to, and as a part of the DeKalb County civil defense. (1976 Code, § 1-1101)

20-102. Authority and responsibilities. (1) Authority. In accordance with federal and state enactments of law, the DeKalb County Civil Defense Organization is hereby authorized to assist the regular government of the county and governments of all political subdivisions therein, as may be necessary due to enemy caused emergency or natural disasters, including but not limited to: storms, floods, fires, explosions, tornadoes, hurricanes, drought, or peace-time man-made disasters, which might occur affecting the lives, health, safety, welfare, and property of the citizens of DeKalb County, the DeKalb County Civil Defense Organization is hereby designated the official agency to assist regular forces in time of said emergencies.

(2) Responsibilities. The DeKalb County Civil Defense Organization shall be responsible for preparation and readiness against enemy caused and natural emergencies arising in DeKalb County, to establish and co-ordinate emergency plans, forces, means, and resources, and is hereby designated the official agency to establish such emergency plans. (1976 Code, § 1-1102)

20-103. Office of director, his authority and responsibility.

(1) Primary authority. (a) The office of the director of civil defense is hereby created. The director shall have the authority to request the declaration of the existence of an emergency by the mayor and county judge or either or by higher authority as appropriate.

(b) The director shall have overall responsibility for the preparation of all plans and recruitment and training of personnel. All local civil defense plans will be in consonance with state plans and shall be approved by the state CD office.

(c) The director is hereby given the authority to delegate such responsibility and authority as is necessary to carry out the purposes of this chapter, subject to the approval of the chief executive officers of the city and county.

(2) Responsibility of the director. The director shall be responsible to the chief executive officers of the city and county for the execution of the authorities, duties, and responsibilities of the DeKalb County Civil Defense Organization, for the preparation of all plans and administrative regulations, and for recruitment and training of personnel. (1976 Code, § 1-1103)

20-104. DeKalb County Civil Defense Corps created. The DeKalb County Civil Defense Corps is hereby created. The corps shall be under the direction of the director of civil defense and his staff members with delegated authority. It shall consist of designated regular government employees and volunteer workers. Duties and responsibilities of the corps members shall be outlined in the civil defense emergency plan. (1976 Code, § 1-1104)

20-105. No municipal or private liability. The duties prescribed in this document are an exercise by the city and county of their governmental functions for the protection of the public peace, health, and safety and neither the City of Smithville nor DeKalb County, the agents and representatives of said city and county nor any individual, receiver, firm, partnership, corporation, association or trustee, nor any of the agents thereof, in good faith carrying out, complying with or attempting to comply with, any order, rule, or regulation promulgated pursuant to the provisions of this document shall be liable for any damage sustained to person or property as the result of said activity. Any person owning or controlling real estate or other premises for the purpose of sheltering persons during an actual, impending, or practice enemy attack, shall together with his successors in interest, if any, not be civilly liable for the death

of, or injury to, any person on or about such real estate or premises under such license, privilege, or other permission or for loss of, or damage to, the property of such person. (1976 Code, § 1-1105)

20-106. Expenses of civil defense. No person shall have the right to expend any public funds of the city or county in carrying out any civil defense activities authorized by this document without prior approval by the governing bodies of the city and/or county or both; nor shall any person have any right to bind the city or county by contract, agreement, or otherwise without prior and specific approval by the governing body of the city and/or county, or both. The civil defense director shall disburse such monies as may be provided annually by appropriation of the city and county for the operation of the civil defense organization. Control of disbursements will be as prescribed by agreement between the treasurers of the city and county. He shall be responsible for the preparation and submission of a budget with recommendations as to its adoption by the city and county. All funds shall be disbursed upon vouchers properly executed by the director of civil defense, subject to audit by either the City of Smithville or DeKalb County. The civil defense director is hereby authorized to accept federal contributions in money, equipment, or otherwise, when available, or state contributions, and is further authorized to accept contributions to the civil defense organization from individuals and other organizations, such funds becoming liable for audit by the city and county. (1976 Code, § 1-1106)

CHAPTER 2

LITTER CONTROL LAW

SECTION

- 20-201. Short title.
- 20-202. Definitions.
- 20-203. Throwing, dumping, or depositing litter.
- 20-204. Evidence against driver of motor vehicle.
- 20-205. Objects bearing name--evidence.
- 20-206. Penalty for violation of litter control law.
- 20-207. Prosecution by peace officer or private citizen.
- 20-208. Report of littering from motor vehicle.

20-201. Short title. Sections 20-201 through 20-208 inclusive, of this chapter shall be known and may be cited as "The Litter Control Law of 1979." (Ord. #137, Oct. 1979)

20-202. Definitions. As used in this chapter unless the context otherwise requires:

- (1) "Garbage" includes putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.
- (2) "Refuse" includes all putrescible and nonputrescible solid wastes.
- (3) "Rubbish" includes nonputrescible solid wastes consisting of both combustible and noncombustible wastes.
- (4) "Litter" includes garbage, refuse, rubbish and all other waste materials. (Ord. #137, Oct. 1979)

20-203. Throwing, dumping, or depositing litter. A person shall not throw, dump, deposit or cause to be thrown, dumped or deposited litter on property owned by another person without permission of the owner or occupant of such property or on any public highway, street or road, upon public parks or recreation areas, or upon any other public property except that property designated for that use. (Ord. #137, Oct. 1979)

20-204. Evidence against driver of motor vehicle. If the throwing, dumping or depositing of litter was done from a motor vehicle, except a motor bus, it shall be prima facie evidence that the throwing, dumping or depositing was done by the driver of the motor vehicle. (Ord. #137, Oct. 1979)

20-205. Objects bearing name--evidence. If an object of litter is discovered on another's property without his permission, on any public highway, street or road, upon public parks or recreation areas, or upon any other public or private property except that property designated for that use bearing a

person's name, it shall be prima facie evidence that the person whose name appears on the object threw, dumped, deposited, or caused it to be thrown, dumped or deposited there. (Ord. #137, Oct. 1979)

20-206. Penalty for violation of litter control law. A person who violates a provision of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars (\$25.00) and not more than fifty dollars (\$50.00). (Ord. #137, Oct. 1979)

20-207. Prosecution by peace officer or private citizen. Prosecution for a violation of §§ 20-201 -- 20-207 may be initiated by a peace officer who witnessed an offense in violation of §§ 20-201 -- 20-207 or who discovered an article bearing a persons' name on the property of another, or any public highway, street, or road, upon a public park or recreation area, or upon any other public or private property except that designated for that use, or by any private citizen, who witnessed an offense or discovered incriminating evidence, who is willing to make the initial charge and testify for the city. (Ord. #137, Oct. 1979)

20-208. Report of littering from motor vehicle. Any person whether or not such person is a citizen of the State of Tennessee, who shall witness the throwing, dumping, or depositing of litter from a motor vehicle onto any public highway, street or road, onto another's property without the owner's permission, onto public park or public recreation lands, or onto any other public property except such as is designated for the throwing, dumping or depositing of litter may report the date and time of day of the littering and the license plate registration number and state of registration to any state or local law enforcement authority. The license plate registration number as recorded shall constitute prima facie evidence that the littering was done by the person to whom such motor vehicle is registered. Nothing in this section shall be construed to modify or change the burden of the city to prove the defendant guilty as provided by law. Any person so reporting a violation shall be required to appear as a witness in any prosecutions resulting therefrom. (Ord. #137, Oct. 1979)

CHAPTER 3

FAIR HOUSING REGULATIONS

SECTION

- 20-301. Policy.
- 20-302. Definitions.
- 20-303. Unlawful practice.
- 20-304. Discrimination in the sale or rental of housing.
- 20-305. Discrimination in the financing of housing.
- 20-306. Discrimination in the provision of brokerage services.
- 20-307. Exemption.
- 20-308. Administration.
- 20-309. Education and conciliation.
- 20-310. Enforcement.
- 20-311. Investigations; subpoenas; giving of evidence.
- 20-312. Enforcement by private persons.

20-301. Policy. It is the policy of the City of Smithville to provide, within constitutional limitations, for fair housing throughout the community. (Ord. #226, Nov. 1989)

20-302. Definitions. (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 thereon of any such building, structure, or portion thereof.

(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, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and judiciaries.

(4) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises owned by the occupant.

(5) "Discriminatory housing practice" means an act that is unlawful under §§ 20-304, 20-305, or 20-306. (Ord. #226, Nov. 1989)

20-303. Unlawful practice. Subject to the provisions of §§ 20-303(2) and 20-307, the prohibitions against discrimination in the sale or rental of housing set forth in § 20-304 shall apply to:

(1) All dwellings except as exempted by subsection (2).

(2) Nothing in § 20-304 shall apply to:

(a) Any single-family house sold or rented by an owner: Provided that such private individual owner does not own more than

three such single-family houses at any one time: Provided further that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period: Provided further that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time: Provided further that the sale or rental of any such single-family house shall be accepted from the application of this title only if such house is sold or rented

(i) Without the use in any manner of the sale or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person and

(ii) Without the publication, posting or mailing, after notice of any advertisement or written notice in violation of § 20-304

(iii) Of this chapter, but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or

(b) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(3) For the purposes of subsection (2), a person shall be deemed to be in the business of selling or renting dwellings if:

(a) He has, within the preceding twelve months, participated as a principal in three or more transactions involving the sale or rental of any dwelling or any interest therein, or

(b) He has, within the preceding twelve months, participated as agent, other than in the sale of his own personal residence in providing sale or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein, or

(c) He is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families. (Ord. #226, Nov. 1989)

20-304. Discrimination in the sale or rental of housing. As made applicable by § 20-303 and except as exempted by §§ 20-303(2) and 20-307 it shall be unlawful:

(1) To refuse to sell or rent after the making of a bona fide offer, 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, or national origin.

(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, or national origin.

(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, or national origin, or an intention to make any such preference, limitation or discrimination.

(4) To represent to any person because of race, color, religion, or national origin 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, or national origin. (Ord. #226, Nov. 1989)

20-305. Discrimination in the financing of housing. It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consist in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefore for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, or national origin of such person or of any person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given: Provided, that nothing contained in this section shall impair the scope or effectiveness of the exception contained in § 20-303(2). (Ord. #226, Nov. 1989)

20-306. Discrimination in the provision of brokerage services. 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 the business of selling or renting dwellings, or to discriminate against him in the terms of conditions of such access,

membership, or participation, on account of race, color, religion, or national origin. (Ord. #226, Nov. 1989)

20-307. Exemption. Nothing in this chapter shall prohibit a religious organization, association, or society, or any non-profit 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 a commercial purpose 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, or national origin. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members. (Ord. #226, Nov. 1989)

20-308. Administration. (1) The authority and responsibility for administering this act shall be in the Mayor of the City of Smithville.

(2) The mayor may delegate any of these functions, duties, and powers to employees of the community or to boards of such employees, including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business, or matter under this chapter. The mayor shall by rule prescribe such rights of appeal from the decisions of his hearing examiners to other hearing examiners or to other officers in the community, to boards of officers or to himself, as shall be appropriate and in accordance with law.

(3) All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this chapter and shall cooperate with the mayor to further such purposes. (Ord. #226, Nov. 1989)

20-309. Education and conciliation. Immediately after the enactment of this ordinance, the mayor shall commence such educational and conciliatory activities as will further the purposes of this chapter. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this chapter and his suggested means of implementing it, and shall endeavor with their advise to work out programs of voluntary compliance and of enforcement. (Ord. #226, Nov. 1989)

20-310. Enforcement. (1) Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter "person aggrieved") may file a complaint with the mayor. Complaints shall be

in writing and shall contain such information and be in such form as the mayor requires. Upon receipt of such a complaint, the mayor shall furnish a copy of the same to the person or persons who allegedly committed or is about to commit the alleged discriminatory housing practice. Within thirty days after receiving a complaint, or within thirty days after the expiration of any period of reference under subsection (3) the mayor shall investigate the complaint and give notice in writing to the person aggrieved whether he intends to resolve it. If the mayor decides to resolve the complaints, he shall proceed to try to eliminate or correct the alleged discriminatory housing practice by information methods of conference, conciliation, and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this chapter without the written consent of the persons concerned. Any employee of the mayor who shall make public any information in violation of this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000 or imprisoned not more than one year.

(2) A complaint under subsection (1) shall be filed within one hundred and eighty days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him and with the leave of the mayor, which shall be granted whenever it would be reasonable and fair to do so, may amend his answer at any time. Both complaints and answers shall be verified.

(3) If within thirty days after a complaint is filed with the mayor, the mayor has been unable to obtain voluntary compliance with this chapter, the person aggrieved may, within thirty days thereafter, file a complaint with the Secretary of the Department of Housing and Urban Development. The mayor will assist in this filing.

(4) If the mayor has been unable to obtain voluntary compliance within thirty days of the complaint, the person aggrieved may, within thirty days hereafter commence a civil action in any appropriate court, against the respondent named in the complaint, to enforce the rights granted or protected by this chapter, insofar as such rights relate to the subject of the complaint. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate.

(5) In any proceeding brought pursuant to this section, the burden of proof shall be on the complaint.

(6) Whenever an action filed by an individual shall come to trial, the mayor shall immediately terminate all efforts to obtain voluntary compliance. (Ord. #226, Nov. 1989)

20-311. Investigations; subpoenas; giving of evidence. In conducting an investigation, the mayor shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record, and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation: Provided, however, that the mayor first complies with the provisions of the Fourth Amendment relating to unreasonable searches and seizures. The mayor may issue subpoenas to compel his access to or the production of such materials, or the appearance of such persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the United States district court of the district in which the investigation is taking place. The mayor may administer oaths.

(2) Upon written application to the mayor, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the mayor to the same extent and subject to the same limitations as subpoenas issued by the mayor himself. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his request.

(3) Witnesses summoned by subpoena of the mayor shall be entitled to the same witness and mileage fees as are witnesses in proceedings in United States district courts. Fees payable to the witness summoned by a subpoena issued at the request of a respondent shall be paid by him.

(4) Within five days after service of a subpoena upon any person, such person may petition the mayor to revoke or modify the subpoena. The mayor shall grant the petition if he finds that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

(5) In case of contumacy or refusal to obey a subpoena, the mayor or other person at whose request it was issued may petition for its enforcement in the municipal or state court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(6) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if in his power to do so, in obedience to the subpoena or lawful order of the mayor shall be fined not more than \$1,000 or imprisoned not more than one year, or both. Any person who, with intent thereby to mislead the mayor, shall make or cause to be made any false entry or statement of fact in any report, account, record, or other document submitted to the mayor pursuant to his subpoena or other order, or shall willfully neglect or fail to make or cause to be made full, true, and correct entries in such reports, accounts, records, or other

documents, or shall willfully mutilate, alter, or by any other means falsify any documentary evidence, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(7) The city attorney shall conduct all litigation in which the mayor participates as a party or as amicus pursuant to this chapter. (Ord. #226, Nov. 1989)

20-312. Enforcement by private persons. (1) The rights granted by §§ 20-303, 20-304, 20-305, and 20-306 may be enforced by civil actions in state or local courts of general jurisdiction. A civil action shall be commenced within one hundred and eighty days after the alleged discriminatory housing practice occurred: Provided, however, that the court shall continue such civil case brought to this section or § 20-310(4) from time to time before bringing it to trial or renting dwellings; or

(2) Any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from:

(a) participating, without discrimination on account of race, color, religion or national origin, in any of the activities, services, organizations or facilities described in subsection 15 (a); or

(b) affording another person or class of persons opportunity or protection so to participate, or

(3) Any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion or national origin, in any of the activities, services, organizations or facilities described in subsection 15 (a), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate shall be fined not more than \$1,000, or imprisoned not more than one year, or both; and, if bodily injury results, shall be fined not more than \$10,000, or imprisoned not more than ten years, or both; and, if death results, shall be subject to imprisonment for any term of years or for life. (Ord. #226, Nov. 1989)

CHAPTER 4

TELEPHONE SYSTEM

SECTION

20-401. To be furnished under franchise.

20-401. To be furnished under franchise. Telephone services shall be furnished for the municipality and its inhabitants under such franchise as the governing body shall grant.¹ 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.

¹The agreements are of record in the office of the city recorder.

CHAPTER 5

TITLE VI COMPLIANCE MANUAL

SECTION

20-501. Title VI Compliance Manual adopted.

20-502. Policy statement.

20-501. Title VI Compliance Manual adopted.¹ The Title VI Compliance Manual for the City of Smithville is hereby adopted in its entirety by reference. (as added by Ord. #332, Dec. 2002)

20-502. Policy statement. The following statement shall be deemed as the City of Smithville's Title VI policy statement: "It is the policy of the City of Smithville to ensure that no citizen shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." (as added by Ord. #332, Dec. 2002)

¹The Title VI Compliance Manual is of record in the office of the city recorder.

CHAPTER 6

PROHIBITION AGAINST USING TOBACCO PRODUCTS IN PUBLIC FACILITIES

SECTION

- 20-601. Purpose.
- 20-602. Definitions.
- 20-603. Prohibitions.
- 20-604. Designation of smoking and non-smoking areas.
- 20-605. Posting of signs.
- 20-606. Exceptions.
- 20-607. Enforcement and appeal.
- 20-608. Violation.

20-601. Purpose. The purpose of this chapter is to prohibit the smoking of tobacco, or any weed or plant, in designated non-smoking areas of public facilities. (as added by Ord. #337, Feb. 2003)

20-602. Definitions. For the purposes of this chapter, the following words shall have the meaning as stated:

(1) "Smoke" or "smoking" means the carrying of a lighted pipe, cigar, cigarette of any kind, or the lighting of a pipe, cigar, or cigarette of any kind.

(2) "Public facility" means any enclosed area or facility which is owned, operated, leased or under the control of the City of Smithville to which the public is invited or in which the public is permitted; including, but not limited to theatres, waiting rooms, reception areas, education facilities, and areas in which city employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges, and conference rooms.

(3) "Private office" means any enclosed room normally occupied by two (2) or fewer individuals and not generally open to the public. (as added by Ord. #337, Feb. 2003)

20-603. Prohibitions. No person shall, in a public facility, smoke in any designated non-smoking area. (as added by Ord. #337, Feb. 2003)

20-604. Designation of smoking and non-smoking areas. (1) Non-smoking areas may be designated in public facilities by the person in charge.

(2) Smoking areas may be designated in public facilities by the person in charge; except in public conveyances, theaters, auditoriums, public assembly rooms, meeting rooms, rest rooms, elevators, libraries, museums or galleries which are open to the public or any other place where smoking is prohibited by the fire marshall or by other law, ordinance or regulation. In areas where

smoking is permitted, existing physical barriers and ventilation systems shall be used to minimize the effect of smoke in adjacent non-smoking areas. It shall be the responsibility of the mayor to provide smoke-free areas for non-smokers within existing facilities to the maximum extent possible. (as added by Ord. #337, Feb. 2003)

20-605. Posting of signs. Signs which designate smoking or non-smoking areas established by this chapter shall be clearly, sufficiently, and conspicuously posted in every room, building, or other place so covered by this chapter. The manner of such posting including the wording, size, color, design, and place of posting whether on the walls, doors, tables, counters, stands or elsewhere shall be at the discretion of the person having control of such room, building, or other place so long as clarity, sufficiency, and conspicuousness are apparent in communicating the intent of this chapter. (as added by Ord. #337, Feb. 2003)

20-606. Exceptions. Notwithstanding any other provision of this chapter, non-smoking areas shall not be required in private offices, meeting and assembly rooms rented to guests, areas and rooms while in use for private social functions, and jails. (as added by Ord. #337, Feb. 2003)

20-607. Enforcement and appeal. (1) The person in charge of any facility shall post or cause to be posted all "No Smoking" signs required by this chapter. Employees working in such facility shall be required to orally inform persons violating this chapter of the provision thereof. The duty to inform such violator shall arise when such employee becomes aware of such violation.

(2) It shall be the responsibility of the mayor to disseminate information concerning the provisions of this chapter to employees.

(3) The person in charge of any facility subject to this chapter may apply to the board of mayor and aldermen for an exemption or modification of the provisions of this chapter due to unique or unusual circumstances or conditions. (as added by Ord. #337, Feb. 2003)

20-608. Violation. Any person violating any provision of this chapter shall be guilty of an offense and upon conviction shall pay a penalty of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) for each offense. Each occurrence shall constitute a separate offense. (as added by Ord. #337, Feb. 2003)