

**TITLE 20****MISCELLANEOUS****CHAPTER**

1. FIXED ASSETS, PROPERTY CONTROL AND INVENTORY.
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**CHAPTER 1****FIXED ASSETS, PROPERTY CONTROL AND INVENTORY****SECTION**

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**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.**<sup>1</sup> 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

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<sup>1</sup>Charter 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, Hydromorphine, 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

- 20-901. Short title.
- 20-902. Definitions.
- 20-903. Adult-oriented establishment--massage registration board.
- 20-904. License to operate--required.
- 20-905. License to operate--application.
- 20-906. License to operate--qualifications.
- 20-907. Inspections--notice of results.
- 20-908. Injunctions--contempt.
- 20-909. Revocation, suspension or annulment of licenses.
- 20-910. Hearings on disciplinary actions--judicial review--prohibition on operation of business.
- 20-911. Termination and renewal of licenses--applications--fees.
- 20-912. Prohibited hours of operation--hours open for inspection.
- 20-913. Duties and responsibilities of operators, entertainers, and employees.
- 20-914. Prohibited activities.
- 20-915. Entertainers or escorts--permits--required.
- 20-916. Entertainers or escorts--permits--application.
- 20-917. Entertainers or escorts--permits--qualifications--investigations.
- 20-918. Entertainers and escorts--permits--fees.
- 20-919. Penalties for violation of part.
- 20-920. Referendum on a doption of part.
- 20-921. Part not exclusive or preemptory of local laws or regulations.
- 20-922. Criminal conviction record check.

**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)