

TITLE 20

MISCELLANEOUS

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CHAPTER 1

CEMETERIES

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20-101. Whitley Cemetery Department created. There is hereby created a department to be known as the Whitley Cemetery Department of the City of Red Boiling Springs, Tennessee. (1980 Code, § 12-301)

20-102. Jurisdiction of department. The Whitley Cemetery Department shall have charge of and supervision over the care, maintenance, and operation of the cemetery property conveyed to the City of Red Boiling Springs by the trustees of the Whitley Cemetery together with any other property hereafter acquired for use in connection with said cemetery property. (1980 Code, § 12-302)

20-103. Mayor or representative to administer. The mayor of the city or his duly authorized representative or representatives shall be responsible for the administration of the provisions of this chapter. (1980 Code, § 12-303)

20-104. City clerk to be bookkeeper. The city clerk shall be the bookkeeper for the Whitley Cemetery Department and shall keep all records required by this chapter. (1980 Code, § 12-304)

20-105. Land to be subdivided. The available and suitable land acquired for use in the Whitley Cemetery Department shall be subdivided into lots of sufficient size for the interment of one person. (1980 Code, § 12-305)

20-106. Deeds to grave lots. The mayor and city clerk are hereby authorized and empowered to execute deeds of conveyance to the purchasers of lots in said cemetery conveying the right of burial of the remains of human beings, upon the payment of the price set forth in § 20-109 below. Said deeds shall contain the name of the purchaser and the consideration paid therefor, a designation or description of the lot conveyed, and shall provide that it is issued subject to all of the provisions of this chapter as well as any rules and regulations hereafter amended, modified, or promulgated by the city council. Said deeds shall prohibit the transfer or alienation of title to the lots so conveyed, except to the City of Red Boiling Springs or with the city's approval. If the purchaser desires to resell the lot, the city shall have the option of either repurchasing the lot for the same price the purchaser paid to the city, or it shall waive its right to repurchase the lot and allow the purchaser to sell the lot to a third person. Said lot shall be sold only by the execution of an instrument of transfer by the transferor and delivery of the original deed to the lot and the instrument of transfer to the city clerk who will sign the instrument of transfer to indicate the approval of the city to the transfer and change the city's record of ownership accordingly. (1980 Code, § 12-306)

20-107. Records to be kept. It shall be the duty of the city clerk to keep a faithful record of all cemetery lots sold, giving the name and address of the purchaser, the lot number, the date of the deed and the amount received. Said clerk shall also keep a record of each interment in the cemetery showing the name of the person buried, the date of burial and a designation of the lot or space in which such burial was made. (1980 Code, § 12-307)

20-108. Burial permits required. It shall be unlawful for any person to dig or cause to be dug a grave in said cemetery without first having applied for and received a burial permit which shall be issued by the city clerk. Before issuing a burial permit, the city clerk shall first determine that the title to the grave lot for which the permit is requested is vested in the deceased or in some

member of the family of the deceased who purchased the lot for the interment of the remains of the deceased. (1980 Code, § 12-308)

20-109. Price of grave lots. The price of lots in the Whitley Cemetery shall be \$100.00 if purchased prior to July 1, 1985. The price of any lots purchased on or after July 1, 1985 shall be \$150.00. (1980 Code, § 12-309)

20-110. Maintenance of cemetery. All lots in the Whitley Cemetery shall be maintained, kept and attended in a proper manner by cutting grass, removing debris and doing other acts necessary to keep the cemetery neat and clean in appearance and free from dangerous defects, such as sunken graves and leaning or tilting headstones or grave markers. The city reserves the right to enter upon such lots and take the necessary steps incident to proper maintenance and it will incur no liability for so doing. (1980 Code, § 12-310)

20-111. Establishment of trust fund. There shall be set up a permanent fund known as the "Whitley Cemetery Trust Fund" for the perpetual maintenance of the Whitley Cemetery. Said Trust Fund shall be created in the following manner: Not less than 50% of the total sales price of each grave lot sold shall be placed in said fund; said fund shall be invested in an interest bearing account and the income therefrom shall be perpetually used for the maintenance, preservation, and improvement of the cemetery grounds and lots. The principal of said trust fund shall not be encroached upon. (1980 Code, § 12-311)

20-112. Establishment of operating account. A separate fund known as the "Whitley Cemetery Operating Account" shall be established into which the interest from the trust fund and the balance of the sales price of grave lots shall be paid. Said operating account shall be used for making any and all current payments for the operation, maintenance, preservation, and improvement of said cemetery. (1980 Code, § 12-312)

20-113. Transfers to and from operating account. If the mayor determines that the balance of funds in the "Whitley Cemetery Operating Account" is excessive, based upon the amount needed for current expenditures, he shall, with the approval of the city council, transfer the excess amount into the trust fund. If the mayor determines that the balance of funds in the "Whitley Cemetery Operating Account" is insufficient to meet current expenditures, he shall, with the approval of the city council, transfer sufficient funds from other city accounts into the operating account to meet current expenditures. (1980 Code, § 12-313)

20-114. Operation prior to subdivision. Until such time as the land acquired is subdivided into lots pursuant to § 20-105, no lots shall be presold,

except that a person who presently has a monument erected for his or her grave site, may prepay for said grave site and a deed will be executed upon the completion of the subdivision. Any person desiring to bury the remains of a human being in the Whitley Cemetery prior to said subdivision, shall select a location for said burial with the approval of the mayor or his representative and shall pay to the city clerk the price for a grave lot set forth in § 20-109. (1980 Code, § 12-314)

20-115. Cemetery committee. The Whitley Cemetery Department shall operate under the direction of a committee of six citizens, three of which were appointed by the Trustees of the Whitley Cemetery, and the mayor and the six members of the city council. The six citizens are as follows: Comus Moss, Randal Gregory, David Painter, Louise Wilson, Doyle Knight and Ken Witcher. Thereafter, all vacancies shall be filled by appointment by the remaining members of the committee. The qualification for the six citizens who serve on the Whitley Cemetery Committee is that he or she must have a family member buried at the Whitley Cemetery. A regular meeting of the Whitley Cemetery Committee shall be held semi-annually (April and October) of each year. All business pertaining to the cemetery shall be voted upon by the Whitley Cemetery Committee. Any two or more members of the committee shall have the power to call a special meeting of the committee at any time deemed necessary by giving notice to the remaining members. The committee shall have the right and power to adopt rules and regulations for the operation of the Whitley Cemetery and shall have general supervision over the care and maintenance of said cemetery. All members of the Whitley Cemetery Committee shall serve without pay. (1980 Code, § 12-315)

CHAPTER 2

FAIR HOUSING

SECTION

- 20-201. Policy.
- 20-202. Definitions.
- 20-203. Unlawful practice.
- 20-204. Discrimination in the sale or rental of housing.
- 20-205. Discrimination in the financing of housing.
- 20-206. Discrimination in the provisions of brokerage services.
- 20-207. Exemption.
- 20-208. Administration.
- 20-209. Education and conciliation.
- 20-210. Enforcement.
- 20-211. Investigations; subpoenas; giving of evidence.
- 20-212. Enforcement by private persons.

20-201. Policy. It is the policy of the City of Red Boiling Springs, Tennessee, to provide, within constitutional limitations, for fair housing throughout the Community. (1980 Code, § 11-301)

20-202. Definitions. (1) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(2) "Family" includes a single individual.

(3) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

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

(5) "Discriminatory housing project" means an act that is unlawful under §§ 20-204, 20-205 or 20-206. (1980 Code, § 11-302)

20-203. Unlawful practice. Subject to the provisions of § 20-207(2), the prohibitions against discrimination in the sale or rental of housing set forth in § 20-204 shall apply to:

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

(2) Nothing in § 20-204 shall apply to:

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

three such single-family houses at any one time: Provided further that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period: Provided further that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at one time: Provided further that the sale or rental of any such single-family house shall be excepted from the application of this title only if such house is sold or rented (i) without the use in any manner of the sale or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person, and (ii) without the publication, posting or mailing, after notice of any advertisement or written notice in violation of § 20-204(3) of this chapter, but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or

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

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

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

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

(c) He is the owner of any dwelling or intended for occupancy by, or occupied by, five or more families. (1980 Code, § 11-303)

20-204. Discrimination in the sale or rental of housing. As made applicable by § 20-203 and except as exempted by §§ 20-203(2) and 20-207 it shall be unlawful:

(1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or

deny, a dwelling to any person because of race, color, religion, 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, or an intention to make any such preference, limitation, or discrimination.

(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. (1980 Code, § 11-304)

20-205. Discrimination in the financing of housing. It shall be unlawful for any bank, building and loan association, insurance company or, other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefore for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, sex, national origin, familial status, or handicap of such person or of any person associated with him in the connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given: Provided, that nothing contained in this section shall impair the scope or effectiveness of the exception contained in § 20-203(2). (1980 Code, § 11-305)

20-206. Discrimination in the provision of brokerage services. It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms of conditions of such access, membership, or participation, on account of race, color, religion, sex, national origin, familial status, or handicap. (1980 Code, § 11-306)

20-207. Exemption. Nothing in this chapter shall prohibit a religious organization, association, or society, or any non-profit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, sex, national origin, familial status, or handicap. Nor shall anything in this chapter prohibit a private club which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its member. (1980 Code, § 11-307)

20-208. Administration. (1) The authority and responsibility for administering this act shall be in the Mayor of the Red Boiling Springs.

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

(3) All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this chapter and shall cooperate with the mayor to further such purposes. (1980 Code, § 11-308)

20-209. Education and conciliation. Immediately after the enactment of this chapter, the mayor shall commence such educational and conciliatory activities as will further the purposes of this chapter. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this chapter and his suggested means of implementing it, and shall endeavor with their advise to work out programs of voluntary compliance and of enforcement. (1980 Code, § 11-309)

20-210. Enforcement. (1) Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter "person aggrieved") may file a complaint with the mayor. Complaints shall be in writing and shall contain such information and be in such form as the mayor requires. Upon receipt of such a complaint, the mayor shall furnish a copy of the same to the person or persons who allegedly committed or is about to commit the alleged discriminatory housing practice. Within thirty days after receiving a

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

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

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

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

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

(6) Whenever an action filed by an individual shall come to trial, the mayor shall immediately terminate all efforts to obtain voluntary compliance. (1980 Code, § 11-310)

20-211. Investigations; subpoenas; giving of evidence. (1) In conducting an investigation, the mayor shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record and copy such materials and take and record the testimony or statements of such persons as are reasonably

necessary for the furtherance of the investigation; Provided, however, that the mayor first complies with the provisions of the Fourth Amendment relating to unreasonable searches and seizures. The mayor may issue subpoenas to compel his access to or the production of such materials or the appearance of such persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the United States district court of the district in which the investigation is taking place. The mayor may administer oaths.

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

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

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

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

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

(7) The city attorney shall conduct all litigation in which the mayor participates as a party or as amicus pursuant to this chapter. (1980 Code, § 11-311)

20-212. Enforcement by private persons. (1) The rights granted by §§ 20-203, 20-204, 20-205 and 20-206 may be enforced by civil actions in state or local courts of general jurisdiction. A civil action shall be commenced within one hundred and eighty days after the alleged discriminatory housing practice occurred: Provided, however, that the court shall continue such civil case brought to this section or § 20-210(4) from time to time before bringing it to trial or renting dwellings; or

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

(a) Participating, without discrimination on account of race, color, religion or national origin, or

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

(3) Any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion or national origin, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate shall be fined not more than \$1,000, or imprisoned not more than one year, or both; and, if bodily injury results, shall be fined not more than \$10,000, or imprisoned not more than ten years, or both; and, if death results, shall be subject to imprisonment for any term of years or for life. (1980 Code, § 11-312)

CHAPTER 3

OCCUPATIONAL SAFETY AND HEALTH PLAN

SECTION

20-301. Title.

20-302. Purpose.

20-303. Coverage.

20-304. Standards authorized.

20-305. Variances from standards authorized.

20-306. Administration.

20-307. Funding the program.

20-308.--20-315. Deleted.

20-301. Title. This section shall provide authority for establishing and administering the occupational safety and health program for the employees of the City of Red Boiling Springs. (as added by Ord. #77, Feb. 1975, and replaced by Ord. #03-6, June 2003)

20-302. Purpose. The City of Red Boiling Springs, in electing to establish and maintain an effective occupational safety and health program for its employees, shall:

(1) Provide a safe and healthful place and condition of employment that includes:

(a) Top management commitment and employee involvement;

(b) Continually analyze the worksite to identify all hazards and potential hazards;

(c) Develop and maintain methods for preventing or controlling existing or potential hazards; and

(d) Train managers, supervisors, and employees to understand and deal with worksite hazards.

(2) Acquire, maintain and require the use of safety equipment, personal protective equipment and devices reasonably necessary to protect employees.

(3) Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development of the State of Tennessee, his designated representatives, or persons within the Tennessee Department of Labor and Workforce Development to whom such responsibilities have been delegated, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.

(4) Consult with the State Commissioner of Labor and Workforce Development with regard to the adequacy of the form and content of records.

(5) Consult with the State Commissioner of Labor and Workforce Development, as appropriate, regarding safety and health problems which are

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

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

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program. (as added by Ord. #77, Feb. 1975, and replaced by Ord. #03-6, June 2003)

20-303. Coverage. The provisions of the occupational safety and health program plan for the employees of the City of Red Boiling Springs shall apply to all employees of each administrative department, commission, board, division, or other agency of the City of Red Boiling Springs whether part-time or full-time, seasonal or permanent. (as added by Ord. #77, Feb. 1975, amended by Ord. #00-10, Oct. 2000, and replaced by Ord. #03-6, June 2003)

20-304. Standards authorized. The occupational safety and health standards adopted by the City of Red Boiling Springs are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with Section 6 of the Tennessee Occupational Safety and Health Act of 1972 (T.C.A. Title 50, Chapter 51). (as added by Ord. #77, Feb. 1975, and replaced by Ord. #03-6, June 2003)

20-305. Variances from standards authorized. The City of Red Boiling Springs may, upon written application to the Commissioner of Labor of the State of Tennessee, request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with "Rules of Tennessee Department of Labor and Workforce Development, Occupational Safety, Chapter 0800-1-2, as authorized by Tennessee Code Annotated, Title 5. Prior to requesting such temporary variance, the City of Red Boiling Springs shall notify or serve notice to employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board as designated by the City of Red Boiling Springs shall be deemed sufficient notice to employees. (as added by Ord. #77, Feb. 1975, and replaced by Ord. #03-6, June 2003)

20-306. Administration. For the purposes of this chapter, Phillip Snow is designated as the director of occupational safety and health to perform duties and to exercise powers assigned so as to plan, develop, and administer occupational safety and health program. The director shall develop a plan of operation for the program and said plan shall become a part of this chapter

when it satisfies all applicable sections of the Tennessee Occupational Safety and Health Act of 1972 and Part IV of the Tennessee Occupational Safety and Health Plan. (as added by Ord. #77, Feb. 1975, and replaced by Ord. #03-6, June 2003)

20-307. Funding the program. Sufficient funds for administering and staffing the program pursuant to this chapter shall be made available as authorized by the City of Red Boiling Springs. (as added by Ord. #77, Feb. 1975, and replaced by Ord. #03-6, June 2003)

20-308.--20-315. [Deleted.] (as added by Ord. #77, Feb. 1975, and replaced by Ord. #03-6, June 2003)

CHAPTER 4

EPHEDRINE AND EPHEDRINE RELATED PRODUCTS

SECTION

- 20-401. Quantity restrictions.
- 20-402. Definitions.
- 20-403. Display.
- 20-404. Exemptions.
- 20-405. Penalty exemption.
- 20-406. Registration of purchases.
- 20-407. Penalties.

20-401. Quantity restrictions. No person shall sell or deliver, or attempt to sell or deliver, in any single retail sale, a package that contains more than one hundred tablets of any product that contains any quantity of ephedrine, pseudoephedrine or phenylpropanolamine, or any number of packages that contains a combined total of three (3) or more grams of ephedrine, pseudoephedrine or phenylpropanolamine whether as the sole active ingredient or in combination products that have less than therapeutically significant quantities of other active ingredients. (as added by Ord. #04-4, July 2004)

20-402. Definitions. (1) The use of the terms "ephedrine," "pseudoephedrine" or "phenylpropanolamine" shall include the salts, optical isomers, or salts of optical isomers of ephedrine, pseudoephedrine or phenylpropanolamine.

(2) The use of the term "retail establishment" shall include any business entity and individual person who sells, offers for sale or attempts to sell any product containing ephedrine, pseudoephedrine or phenylpropanolamine at retail.

(3) The use of the term "consumer accessible shelving" shall mean any area of a retail establishment other than a product display area behind a counter where the public is not permitted, or within a locked display case or within 6 feet of a register located on a checkout counter. (as added by Ord. #04-4, July 2004)

20-403. Display. All packages of any product containing ephedrine, pseudoephedrine or phenylpropanolamine, whether as the sole active ingredient or in combination products that have less than therapeutically significant quantities of other active ingredients, shall not be displayed and offered for sale in any retail establishment on consumer-accessible shelving. (as added by Ord. #04-4, July 2004)

20-404. Exemptions. This chapter shall not apply as follows:

(1) To any product labeled pursuant to federal regulation for use only in children under twelve years of age;

(2) To any products that the state department of health, upon application of a manufacturer, determines has been formulated in such a way as to effectively prevent its use in the illicit manufacture of methamphetamine;

(3) To any animal feed products containing ephedrine, or naturally occurring or herbal ephedra or extract of ephedrine, pseudoephedrine or phenylpropanolamine pursuant to the lawful prescription of a person authorized by state law to prescribe such products. (as added by Ord. #04-4, July 2004)

20-405. Penalty exemption. Any person who is considered the general owner or operator of a retail establishment where products containing ephedrine, pseudoephedrine or phenylpropanolamine are available for sale who violates § 20-401 or § 20-403 of this chapter shall not be penalized pursuant to this chapter if such person documents that an employee training program was in place to provide the employees with information on the local, state, and federal regulations regarding ephedrine, pseudoephedrine or phenylpropanolamine, and that the employees had completed the training program. (as added by Ord. #04-4, July 2004)

20-406. Registration of purchases. (1) Any retail establishment that sells or delivers, or attempts to sell or deliver, to a person any product containing ephedrine, pseudoephedrine or phenylpropanolamine whether as the sole active ingredient or in combination products that have less than therapeutically significant quantities of other active ingredients, shall require such person to show proper identification and to sign a register.

(2) The register described in subsection (1) shall be created by any retail establishment that sells a product or products described in subsection (1) and shall require at least the following information:

(a) The specific quantity of ephedrine, pseudoephedrine or phenylpropanolamine purchased;

(b) The signature of the purchaser;

(c) The name and residential or mailing address of the purchaser, other than a post office box number;

(d) The number of the purchaser's motor vehicle operator's license or other proper identification at the time of the purchase;

(e) The date of such purchase; and

(f) The signature of an employee of the retail establishment as witness to the purchase and identification of the purchaser.

(3) The retail establishment shall retain each original register for three (3) years in a readily presentable and readable manner, and present the register upon demand by any law enforcement officer or authorized representative of the district attorney general's office.

(4) As used in this section, "proper identification" means a valid motor vehicle operator's license or other official and valid state-issued identification of the purchaser that contains a photograph of the purchaser.

(5) This section shall not apply to the sell or delivery of any product containing ephedrine, pseudoephedrine or phenylpropanolamine by a licensed pharmacy upon a pharmacist making a good faith determination that the purchase of the product is for a legitimate medical purpose. (as added by Ord. #04-4, July 2004)

20-407. Penalties. The violation of any part of this chapter is hereby declared to be a civil offense and is punishable by a civil penalty, not exceeding \$50.00. Each day a violation continues unabated shall constitute a separate offense. (as added by Ord. #04-4, July 2004)

CHAPTER 5

**CITY BUILDINGS AND FACILITIES USE AND
RESERVATION POLICY**

SECTION

20-501. Purpose statement.

20-501. Purpose statement. (1) Use of city and facility meeting rooms.

(a) The city council shall have the responsibility and authority to determine the use of city hall and any other city owned buildings and/or facilities by non-city persons, organizations and the like.

(i) Facility shall be defined as any part of any city owned building or facility.

(b) The city mayor and/or his or her designee shall have the full authority to adopt and implement the following procedure and rules:

(i) Use of the city facilities meeting rooms is limited to other government officials, persons or organizations with a contractual relationship to the city for meetings in their official capacity, or organizations in which the city councilmember or city employee is a member for professional development or other city related purposes, or in which the city is sponsoring or co-sponsoring the event for use. Use may be made available to other users on a limited fee basis for events that support a public purpose, benefit, service, training or interest to Red Boiling city residents that otherwise could not occur without the facility being available. The city mayor and/or his or her designee shall have the right to refuse use of the facilities to any person and/or group if the proposed usage and/or event conflicts with the intended use of the building, is in conflict with established policies or laws, or is in conflict with any other confirmed reservation.

(ii) Prohibited use of the facility meeting rooms shall include any and all activities that involve fund raising, advertising, promoting or selling of merchandise or services, for profit or not for profit, except when sponsored or endorsed by the district; and by persons or organizations for election or campaign purposes or purposes contrary to federal, state or city law. Access to the facilities and grounds will be restricted between 10:00 P.M. and 8:00 A.M., unless previously authorized by the city council.

(iii) No admission fees or tuition may be charged to those in attendance, except as authorized by the city council for district sponsored or co-sponsored events.

(iv) Reservations for use of each facility will be accepted on a first come-first served basis. No single individual or group will

be given a preference or a priority so that the facilities are made available to serve the needs of as many different groups as possible. Equal access is available to all applying and no group or individual will be denied access because of considerations of race, sex, religious or political persuasion. The frequency with which one group may utilize the facility is at the discretion of the city council.

(v) Applications and copies of the City of Red Boiling Springs's Use and Reservation Policy will be available at city hall. All applications must be completed in full and returned with any necessary fees/release of liability forms at least thirty (30) days in advance of the intended use date. No application will be valid until the requirements of this section are met by the applicant.

(vi) Any individual or group using a facility shall be required to execute a release of liability for negligence or any damages caused to the user or its property during the time of the event or use of the facility. No assignment shall be allowed unless written permission is obtained and given by the city council. All persons in or on the property shall comply with all laws, regulations, ordinances and rules and not allow disorderly conduct, smoking, alcohol and/or drug consumption, loud or unusual noise or that in any way obstructs or impedes obtaining the services provided on the property. All minors must be attended to and accompanied by an adult. Applicant shall be responsible for securing any permits or approvals, required in connection with the use and/or event. All keys shall remain in possession of the city.

(vii) Fees are fifteen dollars (\$15.00) per hour and deposits are a maximum twenty-five (\$25.00) and dependent on the facility for which application is sought. Deposits may be refunded fourteen (14) days after the schedule use date but not returned is the reservation is cancelled less than seventy-two (72) hours prior to the date scheduled for the use of the facility. (as added by Ord. #15-6/2, Aug. 2015)