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PART 1

SEXUALLY ORIENTED BUSINESSES

§101. Definitions.

1. General. Unless specifically defined below, words and phrases used in this Part shall be interpreted so as to give this Part its most reasonable application.
2. Specific Definitions.

ADULT ARCADE — any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of “specified sexual activities” or “specified anatomical areas.”

ADULT BOOKSTORE or ADULT VIDEO STORE — a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

- A. Books, magazines, periodical or other printed matter or photographs, films, motion pictures, videocassette or video reproductions, slides or other visual representations which depict or describe “specified sexual activities” or “specified anatomical areas.”
- B. Instruments, devices or paraphernalia which are designed for use in connection with “specified sexual activities.”

ADULT CABARET — a nightclub, bar, restaurant or similar commercial establishment which regularly features:

- A. Persons who appear in a state of nudity.
- B. Live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities.”
- C. Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”

ADULT MOTEL — a hotel, motel or similar commercial establishment which:

- A. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures,

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videocassette, slides or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”; and has a sign visible from a public right-of-way which advertises the availability of this adult type of photographic reproductions.

- B. Offers sleeping rooms for rent four or more times in one calendar day during five or more calendar days in any continuous 30 day period.

ADULT MOTION PICTURE THEATER — a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”

ADULT THEATER — a theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of “specified anatomical areas” or “specified sexual activities.”

NUDE MODEL STUDIO — any place where a person who appears in a state of nudity or displays “specified anatomical areas” is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration.

NUDITY or STATE OF NUDITY — the appearance of human bare buttock, anus, male genitals, female genitals or female breasts.

PERSON — any individual, proprietorship, partnership, corporation, association or other legal entity.

SEXUAL ENCOUNTER CENTER — a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

- (1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex when one or more of the persons is in a state of nudity or semi-nude.
- (2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

SEXUAL ORIENTED BUSINESS — any adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio or sexual encounter center.

SPECIFIED ANATOMICAL AREAS — the male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals.

SPECIFIED SEXUAL ACTIVITIES — the following activities each and individually constitute a specified sexual activity:

- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts.
- (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy.
- (3) Masturbation, actual or simulated.
- (4) Excretory functions as part of or in connection with any of the activities set forth in subsections (1) through (3), above.

(Ord. 1995-1, 7/10/1995, §1)

§102. Offenses Defined.

No person shall engage in the operation or establishment of any sexually-oriented business as defined in this Part.

(Ord. 1995-1, 7/10/1995, §2)

§103. Enforcement and Remedies.

1. Enforcement Notice.

- A. If it appears to the Township that a violation of this Part has occurred, the Township shall initiate enforcement proceedings by sending an enforcement notice as provided in this Section.
- B. The enforcement notice shall be sent to the violator and, if applicable, the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel and to any other person requested in writing by the owner of record.
- C. An enforcement notice shall state at least the following:
 - (1) The name of the violator and, if applicable, the owner of record and any other person against whom the Township intends to take action.
 - (2) The location of the violation and, if applicable, the property in violation.

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- (3) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this Part.
- (4) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
- (5) That the recipient of the notice has the right to appeal to the Board of Supervisors within a period of 10 days.
- (6) That failure to comply with the notice within the time specified, unless extended by appeal to the Board of Supervisors, constitutes a violation, with possible sanctions clearly described.

2. Enforcement Remedies.

- A. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Part shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than \$600 plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.
- B. Nothing contained in this Section shall be construed or interpreted to grant to any person or entity other than the Township the right to commence any action for enforcement pursuant to this Section.
- C. District justices shall have initial jurisdiction over proceedings brought under this Section.

(Ord. 1995-1, 7/10/1995, §3; as amended by Ord. 1999-1, 6/14/1999)

§104. Injunctive Relief.

The Smithfield Township Supervisors may institute proceedings in a court of equity of Huntingdon County for the purpose of enjoining any violation or potential violation of this Part.

(Ord. 1995-1, 7/10/1995, §4)

PART 2
CURFEW

§201. Unlawful for Minors to be on Street After a Certain Time.

It shall be unlawful for persons 16 years of age (such persons being defined for the purpose of this Part as children) to be or remain in or upon any of the streets, alleys, parks or public places in the Township of Smithfield at night after the hour of 10:00 p.m. (Daylight Saving Time, during the period that Daylight Saving Time is in effect and otherwise Eastern Standard Time), unless such child is accompanied by any parent, guardian or other person having the legal custody of such child.

(Ord. 1973-3, 9/10/1973, §1; as amended by Ord. 1999-1, 6/14/1999)

§202. Unlawful for Parent to Allow Minor Children to be on Street After a Certain Time.

It is hereby unlawful for any parent, guardian or other person having the legal care or custody of any of the children of the age above designated, to allow or permit any such child, word or other person under such age, while in such legal custody, to go or be in or upon any of the streets, alleys, parks or public places in said Township after the time prohibited in §201 of this Part, except as therein provided.

(Ord. 1973-3, 9/10/1973, §2)

§203. Minor Children Taken into Custody.

Any child as above designated found upon the Township streets, alleys, parks or public places within the Township, in violation of §201 of this Part, shall be taken into custody by an appropriate official and delivered to his or her parents, guardian or person having the legal custody of said child, and report thereof made immediately to the Supervisors, who shall make a record thereof in a book to be kept for that purpose. If said parent, guardian or person having the legal custody of such child shall again allow him or her to be on said streets, alleys, parks or public places in violation of §201 of this Part, said parent, guardian or person having the legal custody of such child so offending shall upon conviction thereof in an action brought before a district justice in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(Ord. 1973-3, 9/10/1973, §3; as amended by Ord. 1999-1, 6/14/1999)

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§204. Age Discrimination.

The officials enforcing this Part, in taking children into custody, shall use their discretion in determining age, and in doubtful cases may require proof, and until such proof is furnished the judgment of the official shall prevail.

(Ord. 1973-3, 9/10/1973, §4)

§205. Enforcement.

Said children who shall violate this Part more than three times shall be reported to the Juvenile Department of the Huntingdon County Probation Department for such action as they shall deem appropriate.

(Ord. 1973-3, 9/10/1973, §5)

PART 3
LITTERING

§301. Short Title.

This Part shall be known and may be cited as the “Smithfield Township Anti-Litter Ordinance.”

(Ord. 1986-2, 7/7/1986, §1)

§302. Definitions.

For the purpose of this Part the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word “shall” is always mandatory and not merely directory:

AIRCRAFT — any contrivance now known or hereafter invented, used or designated for navigation or for flight in the air. The word “aircraft” shall include helicopters and lighter-than-air dirigibles and balloons.

AUTHORIZED PRIVATE RECEPTACLE — a litter storage and collection receptacle as used by the citizens of Smithfield Township to convey litter to trash haulers for collection.

GARBAGE — putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

LITTER — “garbage,” “refuse” and “rubbish” as defined herein and all other waste material which, if burned or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

PARK — a park, playground, recreation center or any other public area in the Township, owned or used by the Township and devoted to active or passive recreation.

PERSON — any person, firm, partnership, association, corporation, company or organization of any kind.

PRIVATE PREMISES — any dwelling, house, building or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house building or other structure.

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PUBLIC PLACE — any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, places, grounds and buildings.

REFUSE — all putrescible and nonputrescible solid waste (except body waste) including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles and solid market and industrial wastes.

REPEAT VIOLATIONS — occur when a property owner or agent thereof is found guilty in a summary proceeding of three violations of this Part that warrant notices to remove being sent to the property owner or agent thereof by the Township. [Ord. 1998-3]

RUBBISH — nonputrescible solid waste consisting of both combustible and non-combustible wastes, such as paper wrapping, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

TOWNSHIP — the Township of Smithfield, County of Huntingdon and Commonwealth of Pennsylvania.

VEHICLE — every device in, upon or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon a stationary rail or tracks.

(Ord. 1986-2, 7/7/1986, §2; as amended by Ord. 1998-3, 3/9/1998, §1)

§303. Litter in Public Places.

No person shall throw or deposit litter in or upon any street, sidewalk or other public places within the Township except in public receptacles or authorized private receptacles for collection.

(Ord. 1986-2, 7/7/1986, §3)

§304. Placement of Litter in Receptacles so as to Prevent Scattering.

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

(Ord. 1986-2, 7/7/1986, §4)

§305. Sweeping Litter into Gutters Prohibited.

No person shall sweep into or deposit in any gutter, street or other public place within the Township the accumulation of litter from any building or lot or from any public or private lot or sidewalk or driveway. Persons owning or occupying property shall keep any sidewalk in front of their premises free of litter.

(Ord. 1986-2, 7/7/1986, §5)

§306. Business's Duty to Keep Sidewalk Free of Litter.

No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or public place within the Township the accumulation of litter from any building or lot or from any public or private lot, sidewalk or driveway. Persons owning or occupying places of business within the Township shall keep any sidewalk in front of their business premises free of litter.

(Ord. 1986-2, 7/7/1986, §6)

§307. Litter Thrown by Person in Vehicles.

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or any public place within the Township, or upon private property.

(Ord. 1986-2, 7/7/1986, §7)

§308. Truck Loads Causing Litter.

No person shall drive or move any truck or other vehicle in the Township unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being deposited upon any street, alley or other public place. Nor shall any person drive or move any vehicle or truck within the Township which carries onto or deposits in or on any property, street, alley or other public place litter or foreign matter of any kind.

(Ord. 1986-2, 7/7/1986, §8)

§309. Litter in Parks.

No person shall throw or deposit litter in any park within the Township except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided herein.

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(Ord. 1986-2, 7/7/1986, §9)

§310. Litter in Lakes, Streams and Fountains.

No person shall throw or deposit litter in any fountain, pond, lake, stream or any other body of water in a park or elsewhere within the Township.

(Ord. 1986-2, 7/7/1986, §10)

§311. Dropping Litter from Aircraft.

No person in an aircraft shall throw out, drop or deposit within the Township any litter, handbill or any other object.

(Ord. 1986-2, 7/7/1986, §11)

§312. Litter on Occupied Private Property.

No person shall throw or deposit litter on any occupied private property within the Township, whether owned by such person or not, except that the owner or person in control of the private property may maintain authorized private receptacles for collection in such manner that litter will be prohibited from being carried or deposited by the elements on any street, sidewalk or other public place or upon any private property.

(Ord. 1986-2, 7/7/1986, §12)

§313. Owner to Maintain Premises Free of Litter.

The owner or person in control of the private property shall at all times maintain the premises free of litter; provided, however, that this Section shall not prohibit the storage of litter in authorized private receptacles for collection.

(Ord. 1986-2, 7/7/1986, §13)

§314. Litter on Vacant Lots.

No person shall throw or deposit litter on any open or vacant private property within the Township, whether owned by such person or not.

(Ord. 1986-2, 7/7/1986, §14)

§315. Clearing of Litter From Open Private Property by Township.

1. Notice to Remove. The Township Supervisors are hereby authorized and empowered to notify the owner of any open or vacant private property within the Township or the agent of such property to dispose of litter located on such owner's property which is dangerous to public health, safety or welfare. Such notice shall be by registered mail, addressed to said owner at his last known address.
2. Action Upon Noncompliance. Upon the failure, neglect or refusal by any owner or agent so notified to properly dispose of litter dangerous to the public health, safety and welfare within 10 days of receipt of written notice provided for in subsection (1), above, or within 10 days after the date of such notice in the event that the same is returned to the Township Supervisors because of their inability to make delivery thereof; provided, that the same is properly addressed to the last known address of the owner, or agent. The Township Supervisors are hereby authorized and empowered to pay for the disposing of such litter or to order its disposal by the Township.
3. Charge for Removal. When the Township has effected the removal of such dangerous litter or has paid for its removal, the actual cost thereof, plus accrued interest at 6% per annum from the date of the completion of the work, if not paid by such owner prior thereto, shall be charged to the owner of such property and forwarded to said owner at his last known address by registered mail.
4. Recorded Statement Constitutes Lien. Where the full amount due the Township is not paid by such owner within 10 days after the disposal of such litter, as provided for in subsections (1) and (2), above, then, and in that case, the Township Supervisors shall cause to be recorded in the Office of the Prothonotary of Huntingdon County, Huntingdon, Pennsylvania, a sworn statement showing the cost and expense incurred for the work, the date work was done, and the location of the property on which said work was done. The recordation of such sworn statement shall constitute a lien and privilege on the property, and shall remain in full force and effect for the amount due and interest, plus cost of court, if any, for collection, until final payment has been made. Sworn statements recorded in accordance with all provisions hereof shall be prima facie evidence that all legal formalities have been complied with and that the work has been done properly and satisfactorily and shall be full notice to every person concerned that the amount of the statement, plus interest, constitutes a charge against the property designated or described in the statement and that the same is due and collectible as provided by law.
5. Repeat Violations. Where the owner of property or the agent thereof is found guilty in a summary proceeding of three violations that warrant notice to remove, as defined in §302 of this Part, within a period of three consecutive months, that property owner shall be guilty of a repeat violation of this Part. Upon committing a repeat violation, the property owner shall be subject to the penalties set forth in §316 of this Part. [Ord. 1998-3]

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(Ord. 1986-2, 7/7/1986, §15; as amended by Ord. 1998-3, 3/9/1998, §1)

§316. Penalties.

1. In addition to any other remedy provided herein, any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a district justice in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.
2. Provided, further, that with the consent of the district justice and with the consent of the defendant who has either pleaded guilty or been found guilty of a violation of this Part, the defendant may be ordered, in lieu of other sentences, to perform 30 hours of volunteer service for Smithfield Township removing litter from the roads and designated property within the Township at such time, place and in such manner as directed by the Board of Supervisors of Smithfield Township. In the event the defendant shall have opted to perform the voluntary community services immediately aforementioned and subsequent thereto fails to perform such service, said person shall be summoned to appear again before the district justice.

(Ord. 1986-2, 7/7/1986, §16; as amended by Ord. 1999-1, 6/14/1999)