

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

1. HUNTING.
2. OFFENSES AGAINST THE PEACE AND QUIET.

CHAPTER 1

HUNTING

SECTION

11-101. Hunting.

11-101. Hunting. (1) Hunting, trapping and fishing regulation is the domain of the State of Tennessee under the Tennessee Wildlife Resources Agency (TWRA) pursuant to its exclusive authority to administer and enforce Tennessee wildlife statutes, regulations and proclamations which prevail over municipal ordinances.

(2) It is unlawful to hunt on private property without first obtaining permission or approval of the owner. *Tennessee Code Annotated*, § 70-4-106.

(3) Private land that has been properly posted by the owner with signs that include the owner's name and address plus the wording "Hunting by Written Permission Only" require that a hunter or trapper carry the owner's written permission or that the owner be present to verify a hunter or trapper's authorization to hunt or trap on the posted property. *Tennessee Code Annotated*, § 70-4-106.

(4) Hunting or shooting from a public right-of-way or across any public roads is prohibited. It is also unlawful to hunt or shoot within one hundred (100) yards of a visible dwelling without the permission of the owner. *Tennessee Code Annotated*, § 70-4-108.

(5) Hunting or killing game from any type of road legal or off-road vehicle or a boat of any type is prohibited. *Tennessee Code Annotated*, § 70-4-109.

(6) Spotlighting deer is prohibited. *Tennessee Code Annotated*, § 70-4-110.

¹Municipal code references

Animal control: title 10.

Streets and sidewalks (non-traffic): title 16.

Traffic offenses: title 15.

(7) Hunting or killing any big game during closed seasons is prohibited. *Tennessee Code Annotated*, § 70-4-111. (Hunting seasons vary depending on the type of game and the weapons authorized.)

(8) It is unlawful (criminal trespass) for a person to enter or remain on property, or any portion of property, without the consent of the owner. *Tennessee Code Annotated*, § 39-14-405. (Ord. #216-4, May 2016)

CHAPTER 2

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

- 11-201. Disturbing the peace and quiet.
- 11-202. Anti-noise regulations.
- 11-203. Exceptions.
- 11-204. General provisions.
- 11-205. Violations and penalty.

11-201. Disturbing the peace and quiet. No person shall disturb, tend to disturb or aid in the disturbing the peace of others by violent, tumultuous, or offensive conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control within the corporate limits of the City of Baneberry. The creating of any unreasonably loud, disturbing and unnecessary noise is prohibited; and noise of such character, intensity or duration as to be detrimental to the life or health of any individual or in disturbance of the public peace and welfare in the City of Baneberry is prohibited. A person who violates *Tennessee Code Annotated*, § 39-17-305 is also in violation of this section. (Ord. #214-1, March 2014)

11-202. Anti-noise regulations. Subject to the provisions of this resolution, the creating of any unreasonably loud or raucous noise which unreasonably disturbs, injures, or endangers the comfort, repose, or safety of reasonable persons of ordinary sensitivity within the boundaries of the City of Baneberry, Tennessee is prohibited. Noise of such character, intensity, or duration as to be detrimental to the comfort, repose, peace, or health of an individual or that unreasonably interferes with the peace, repose, health, or comfort of neighbors, or their guests, or operators or customers in places of business, or as to detrimentally affect such residence or places of business is also prohibited. The following acts, among others, are declared to be violations of this chapter, but this enumeration shall not be deemed to be exclusive, namely:

(1) Horns, signaling devices, etc. The sounding of any horn or other such device on any automobile, motorcycle, truck, or other vehicle except as a danger warning on a public street or public place of the city; any unreasonably loud or harsh sound by any other signaling device; or the sounding of such devices for an unnecessary and unreasonable period of time.

(2) Radio, television, stereos, live bands, amplifiers, loud speakers, drums, etc.

(a) The using, operating, or permitting to be played, used, or operated any radio receiving set, musical instrument, phonograph, television, live band, amplifiers, loud speakers, or other machine or device for the producing or reproducing of sound in such a manner that is

plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and which unreasonably disturbs the peace, quiet and comfort of neighbors or passers-by, or inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle, chamber, or area in which such live band, machine or device is operated and who are voluntary listeners thereto.

(b) The using, operating, or permitting to be played, used, or operated any radio receiving set, musical instrument, phonograph, television, live band, amplifiers, loud speakers, or other machine or device for the producing or reproducing of sound between the hours of 11:00 P.M. and 7:00 A.M., Monday through Saturday; between the hours of 11:00 P.M. Saturday and 1:00 P.M. Sunday; and between the hours of 6:00P.M. Sunday and 7:00 A.M. Monday in such a manner as to be plainly audible at a distance of fifty feet (50') from the building, structure or vehicle, area, or property in or upon which any radio receiving set, musical instrument, phonograph, television, live band, amplifiers, loud speakers, or other machine or device for the producing or reproducing of sound is located and unreasonably disturbs the peace, quiet, and comfort of neighbors.

(3) Loud speakers and/or amplifiers for advertising. The unreasonably loud and raucous use or operation of any radio, receiving set, musical instrument, phonograph or stereo, loud speakers, sound amplifier, public address system or other machine or device for the producing or reproducing of sound for the purpose of commercial advertising or attracting the attention of the public to any building, structure or service.

(4) Animals, birds, pets, etc. The keeping of any animals, which by causing, frequent or long continued noise shall disturb the comfort or repose of any persons in the vicinity.

(5) Use of vehicles. The use of any automobile, semi-truck, four-wheeler, go-cart, motorcycle, motor bike, or dirt bike in such a manner as to cause loud acceleration, other unreasonably loud noise, and unnecessary grating, grinding, rattling, or other noise.

(a) The use of any vehicle by acceleration or unnecessary braking or creating unnecessary noise otherwise known as squealing of tires.

(b) "Truck tractors and semi-trailers," as defined in *Tennessee Code Annotated*, § 55-1-101, shall not use an engine compression braking device unless the engine compression braking device is equipped with an operational approved muffler. As used in this section, "approved muffler" means any muffler that complies with Federal Motor Carrier Safety Regulations on noise emissions, 49 CFR 325, *et seq.*

(c) The use of any vehicle so out of repair or loaded in such a manner as to cause loud and unnecessary noise.

(d) Exhaust discharge. Discharging into the open air the exhaust of any stationary internal combustion engine, motor vehicle, or boat engine, except through a muffler or other device which will effectively prevent loud or explosive engine noise.

(6) Construction or repair of buildings. The creation of any loud and excessive noise in creation with the erection, including excavation, demolition, alteration or repair of any building in any residential area or section other than between the hours of 7:00 A.M. and 9:00 P.M. except in case of urgent necessity in the interest of public health and safety, and then only with a permit or written authorization from the City of Baneberry Building Inspector or the Baneberry city manager granted for a period while the emergency or urgent public necessity continues, and not for a period exceeding thirty (30) days without re-authorization, or upon a schedule approved by the board of mayor and aldermen. (Ord. #214-1, March 2014, modified)

11-203. Exceptions. Although every effort must be made to minimize noise and its negative impact on residents, none of the terms or prohibitions hereof shall apply to or be enforced against:

(1) Any vehicle of the City of Baneberry or a vehicle contracted by the City of Baneberry while engaged upon necessary public business.

(2) Noises resulting from any authorized emergency vehicle, when responding to an emergency call, the necessary testing of equipment, or acting in time of an emergency.

(3) Excavations or repairs of bridges, streets, or highways at night by or on behalf of the city, the county or the state, when the public welfare and convenience remedies it impracticable to perform such work during the day.

(4) The reasonable use of amplifiers or loud speakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by the city or nonprofit organizations without a permit or a letter of written authorization from the Baneberry City Manager.

(5) Noises of safety signals and warning devices.

(6) Noises resulting from a parade, scheduled outdoor athletic event, fireworks display, or any event which has been sanctioned by the city.

(7) Noises resulting from a street fair, block party, or other special event between the hours of 7:00 A.M. and 11:00 P.M. and approved by the city manager.

(8) Construction operations between the hours of 7:00 A.M. and 9:00 P.M. for which building permits have been issued or construction operations for which no permit is required, provided that all construction equipment is operated according to the manufacturer's specifications and mufflers are maintained in proper working order.

(9) Domestic power tools, lawn mowers, and agricultural equipment between the hours of 8:00 A.M. and 9:00 P.M. provided it is operated properly

with all manufacturers' standard noise-reducing equipment in place and in proper operating condition. (Ord. #214-1, March 2014)

11-204. General provisions. The standards which shall be considered in determining whether a violation of the chapter has occurred shall include, but not be limited to, the following:

- (1) The volume of noise.
- (2) The intensity of noise.
- (3) Whether the nature of the noise is usual or unusual.
- (4) Whether the origin of the noise is natural or unnatural.
- (5) The volume and intensity of the background noise, if any.
- (6) The proximity of the noise to residential sleeping facilities.
- (7) The nature and zoning of the area within which the noise emanates.
- (8) The density of inhabitation of the area within which the noise emanates.
- (9) The time of day or night the noise occurs.
- (10) The duration of the noise.
- (11) Whether the noise is recurrent, intermittent, or constant.
- (12) Whether the noise is produced by a commercial or non-commercial activity. (Ord. #214-1, March 2014)

11-205. Violations and penalty. (1) For purposes of this chapter, either the owner, occupant, or manager of real property from which a noise violation originates shall be responsible for remedying the violation and liable for any costs or fines which result from the violation. Further, the sponsor, promoter, and/or producer of any event which is the subject of a noise violation shall also be responsible for remedying the violation and liable for any costs or fines which result from the violation.

(2) Any person or organization found to be in violation of any provision of this section shall receive a citation charging said person or organization with an offense which may result in a fine of not more than fifty dollars (\$50.00) for each separate violation. Upon issuance of a notice of violation, the responsible party shall correct said violation immediately or be cited for an additional violation. The previous sentence shall not limit violations of this chapter to one (1) or two (2) violations. Each time a responsible party fails to immediately correct said violation shall be considered a separate offense and may be dealt with separately. Each time a citation is issued and the responsible party fails to immediately correct said violation, another citation may be issued and another fifty dollar (\$50.00) fine may be levied.

(3) As an additional remedy, and or in lieu of any other remedy available under this section, any violation of any provision of this section shall be deemed and is declared a public nuisance and may be subject to abatement by a restraining order or injunction issued by a court of competent jurisdiction.

(4) After the issuance of a citation pursuant to this section, if said violation is not corrected by the responsible party, the enforcing officer may issue a notice, directing the responsible party to abate said violation of this section. Failure to comply with the notice shall constitute a violation of this chapter. (Ord. #214-1, March 2014)