

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

1. ALCOHOL.
2. FORTUNE TELLING, ETC.
3. ANTI-NOISE REGULATIONS.
4. INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL.
5. FIREARMS, WEAPONS AND MISSILES.
6. TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC.
7. MISCELLANEOUS.
8. SYNTHETIC DRUGS.

CHAPTER 1

ALCOHOL²

SECTION

- 11-101. Drinking beer, etc., on streets, etc.
11-102. Minors in beer places.

11-101. Drinking beer, etc., on streets, etc. It shall be unlawful for any person to drink or consume, or have an open can or bottle of beer or any alcoholic beverage, in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground, or other public place unless the place has a beer permit and license for on premises consumption. (1983 Code, § 10-229, modified)

¹Municipal code references

- Animals and fowls: title 10.
- Housing and utilities: title 12.
- Fireworks and explosives: title 7.
- Traffic offenses: title 15.
- Streets and sidewalks (non-traffic): title 16.

²Municipal code reference

- Sale of alcoholic beverages, including beer: title 8.

State law reference

- See Tennessee Code Annotated, § 33-8-203 (Arrest for Public Intoxication, cities may not pass separate legislation).

11-102. Minors in beer places. No person under the age of eighteen (18) shall loiter in or around, work in, or otherwise frequent any place where beer is sold at retail for consumption on the premises. (1983 Code, § 10-222)

CHAPTER 2**FORTUNE TELLING, ETC.****SECTION**

11-201. Fortune telling, etc.

11-201. Fortune telling, etc. It shall be unlawful for any person to hold himself forth to the public as a fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers. (1983 Code, § 10-234)

CHAPTER 3

ANTINOISE REGULATIONS

SECTION

- 11-301. Definitions.
- 11-302. Disturbing the peace.
- 11-303. Exceptions.
- 11-304. Violation and penalty.

11-301. Definitions. A noise is unreasonable within the meaning of this chapter if it is unpleasant, harsh, or harmful to the human ear to the extent that it is detrimental to the physical or mental health and well-being of persons in the vicinity, measured by a totality of circumstances. Among those circumstances law enforcement officers applying this chapter shall consider in determining whether a noise is unreasonable are:

- (1) The place of the noise, including land use in the vicinity;
- (2) Time of the noise;
- (3) Character of the noise;
- (4) Level of the noise;
- (5) Duration of the noise;
- (6) Any variance or enhancement to the factory-installed speaker system in any vehicle traveling within the town limits of Carthage. (Ord. #290, May 1999)

11-302. Disturbing the peace. No person shall make any of the following noises that unreasonably disturb the peace and quiet of persons in the vicinity, unless the making and continuing of the noise cannot be prevented and is necessary for the protection and preservation of property or of the health, safety, life or limb of some person.

(1) Blowing horns. The sounding of any horn or other device on any automobile, motorcycle, bus, truck, or vehicle except as a danger signal if another vehicle is approaching, apparently out of control, or if the vehicle is in motion, only as a danger signal immediately before, after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.

(2) Radios, phonographs, compact disc, etc. The playing of any radio, phonograph, compact disc, or any musical instrument or sound device, particularly during the hours between 11:00 P.M. and 7:00 A.M. However, nothing in this subsection shall be construed to negate the enforcement of this provision at any time there is a violation of same.

(3) Yelling, shouting, etc. Yelling, shouting, whistling, or singing on the public streets or any other place, particularly between the hours of 11:00

P.M. and 7:00 A.M. However, nothing in this subsection shall be construed to negate the enforcement of this provision at any time there is a violation of same.

(4) Pets. The keeping of any animal, bird or fowl, which by causing frequent or long continued noise, shall disturb the comfort or repose of any person in the vicinity.

(5) Malfunctioning vehicles. The use of any automobile, motorcycle, truck, or vehicle that for any reason causes grating, grinding, rattling, or other noise.

(6) Whistles and sirens. The blowing of any whistle or siren, except to give notice of the time to begin or stop work, or as a warning of fire or danger, or upon request of proper town authorities.

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

(8) Building operations. The erection (including excavation), demolition, alteration, or repair of any building in any residential area or areas, or the construction or repair of streets and highways in any residential area, except between the hours of 7:00 A.M. and 6:00 P.M. on week days, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector granted for a period while the emergency continues, not to exceed thirty (30) days. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration, or repair of any building or the excavation of streets and highways between the hours of 6:00 P.M. and 7:00 A.M., and if he shall further determine that loss or inconvenience would result to any party in interest through delay, he may grant permission for such work to be done between the hours of 6:00 P.M. and 7:00 A.M., upon application being made at the time of the permit for the work is awarded or during the process of the work.

(9) Noises near schools, hospitals, churches, etc. The creation of any noise on any street adjacent to any hospital or adjacent to any school, institution of learning, church, or court while the same is in session.

(10) Loading or unloading operations. The creation of any loud and excessive noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates and other containers.

(11) Loudspeakers, amplifiers. The use of any loudspeakers, amplifiers, or other device or instrument that reproduces and amplifies the human voice, music, or sound of any other kind for any other purpose, whether or not the same is stationary or mobile.

(12) Any other noise of any description and from any other source.
(Ord. #290, May 1999)

11-303. Exceptions. None of the terms or prohibitions hereof shall apply to or be enforced against:

(1) Government vehicles. Any vehicle of the federal, state, county, or town government upon necessary public business.

(2) Repair of streets, etc. Excavations or repairs of bridges, streets, or highways at night, by or on behalf of the town, county, state or federal government, when the public welfare and convenience renders it impracticable to perform such work during the day.

(3) Courthouse square activities or parades. Any public activity, which is conducted at or around the courthouse square which is sanctioned or given permission by any official office of the Town of Carthage or Smith County. Additionally, any parade, caravan or escort that had been granted specific permission by the previously noted governing bodies, to conduct same. (Ord. #290, May 1999)

11-304. Violation and penalty. A violation of any provision of this chapter shall subject the offender to a penalty of up to fifty dollars (\$50.00) for each offense. (Ord. #290, May 1999)

CHAPTER 4

INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL**SECTION**

- 11-401. Impersonating a government officer or employee.
11-402. False emergency alarms.
11-403. Coercing people not to work.

11-401. Impersonating a government officer or employee. No person other than an official police officer of the town shall wear the uniform, apparel, or badge, or carry any identification card or other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the official police officers of the town. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee. (1983 Code, § 10-211)

11-402. False emergency alarms.¹ It shall be unlawful for any person intentionally to make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance, or to aid or abet in the commission of such an act. (1983 Code, § 10-217)

11-403. Coercing people not to work. It shall be unlawful for any person in association or agreement with any other person to assemble, congregate, or meet together in the vicinity of any premises where other persons are employed or reside for the purpose of inducing any such other person by threats, coercion, intimidation, or acts of violence to quit or refrain from entering a place of lawful employment. It expressly is not the purpose of this section to prohibit peaceful picketing. (1983 Code, § 10-230)

¹Municipal code reference
False alarms: §§ 6-201 and 7-501.

CHAPTER 5

FIREARMS, WEAPONS AND MISSILES

SECTION

11-501. Air rifles, etc.

11-502. Throwing of missiles; possession of eggs with intent to throw.

11-503. Weapons and firearms generally.

11-501. Air rifles, etc. It shall be unlawful for any person in the town to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a metal bullet or pellet, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. (1983 Code, § 10-213)

11-502. Throwing of missiles; possession of eggs with intent to throw. It shall be unlawful for any person maliciously to throw any stone, snowball, bottle, egg or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person. It shall also be unlawful for any person to possess in public, and on any street, highway, alley, public place or any property not belonging to or the dwelling place of said person an egg or eggs on October 31 or on any other day designated for the celebration of Halloween between the hours of 6:00 P.M. and 6:00 A.M. the next morning with the intent to throw same at any person or property. There shall be a rebuttable presumption that anyone in possession of an egg or eggs in the places and times designated above possessed said egg or eggs with the intent to throw same at persons and/or property. (1983 Code, § 10-214)

11-503. Weapons and firearms generally. It shall be unlawful for any unauthorized person to discharge a firearm within the town. (1983 Code, § 10-212, modified)

CHAPTER 6**TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE
WITH TRAFFIC****SECTION**

11-601. Trespassing.

11-602. Malicious mischief.

11-603. Interference with traffic.

11-601. Trespassing. The owner or person in charge of any lot or parcel of land or any building or other structure within the corporate limits may post the same against trespassers. It shall be unlawful for any person to go upon any such posted lot or parcel of land or into any such posted building or other structure without the consent of the owner or person in charge.

It shall be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to leave promptly the private premises of any person who requests or directs him to leave. (1983 Code, § 10-226)

11-602. Malicious mischief. It shall be unlawful and deemed to be malicious mischief for any person willfully, maliciously, or wantonly to damage, deface, destroy, conceal, tamper with, remove, or withhold real or personal property which does not belong to him. (1983 Code, § 10-225)

11-603. Interference with traffic. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere unreasonably with the free passage of pedestrian or vehicular traffic thereon. (1983 Code, § 10-232)

CHAPTER 7**MISCELLANEOUS****SECTION**

11-701. Abandoned refrigerators, etc.

11-702. Caves, wells, cisterns, etc.

11-703. Posting notices, etc.

11-704. Curfew for minors.

11-705. Wearing masks.

11-706. Disorderly houses.

11-707. Profanity, etc.

11-701. Abandoned refrigerators, etc. It shall be unlawful for any person to leave in any place accessible to children any abandoned, unattended, unused, or discarded refrigerator, icebox, or other container with any type latching or locking door without first removing therefrom the latch, lock, or door. (1983 Code, § 10-223)

11-702. Caves, wells, cisterns, etc. It shall be unlawful for any person to permit to be maintained on property owned or occupied by him any cave, well, cistern, or other such opening in the ground which is dangerous to life and limb without placing thereon an adequate cover or safeguard. (1983 Code, § 10-231)

11-703. Posting notices, etc. No person shall fasten, in any way, any show-card, poster, or other advertising device upon any public property. (1983 Code, § 10-227, modified)

11-704. Curfew for minors. It shall be unlawful for any person, under the age of eighteen (18) years, to be abroad at night between 11:00 P.M. and 5:00 A.M. and on October 31 or any other day designated for the celebration of Halloween between the hours of 8:00 P.M. and 5:00 A.M. the next morning unless going directly to or from a lawful activity or upon a legitimate errand for, or accompanied by, a parent, guardian, or other adult person having lawful custody of such minor. (1983 Code, § 10-224)

11-705. Wearing masks. It shall be unlawful for any person to appear on or in any public way or place while wearing any mask, device, or hood whereby any portion of the face is so hidden or covered as to conceal the identity of the wearer. The following are exempted from the provisions of this section:

(1) Children under the age of ten (10) years.

(2) Workers while engaged in work wherein a face covering is necessary for health and/or safety reasons.

(3) Persons wearing gas masks in civil defense drills and exercises or emergencies.

(4) Any person having a special permit issued by a city clerk to wear a traditional holiday costume. (1983 Code, § 10-235, modified)

11-706. Disorderly houses. It shall be unlawful for any person to keep a disorderly house or house of ill fame for the purpose of prostitution or lewdness or where drunkenness, quarrelling, fighting, or other breaches of the peace are carried on or permitted to the disturbance of others. Furthermore, it shall be unlawful for any person knowingly to visit any such house for the purpose of engaging in such activities. (1983 Code, § 10-203)

11-707. Profanity, etc. No person shall use any profane, vulgar, or indecent language in or near any public street or other public place or in or around any place of business open to the use of the public in general. (1983 Code, § 10-208)

CHAPTER 8**SYNTHETIC DRUGS****SECTION**

- 11-801. Definitions.
- 11-802. Prohibited conduct.
- 11-803. Exception.
- 11-804. Civil penalty.
- 11-805. Severability.

11-801. Definitions. (1) "Synthetic drug" as used in this section shall mean:

(a) Any substance, however denominated, and no matter the common street, brand or trade name of such substance, containing one (1) or more of the following chemicals:

(i) Salvia divinorum or salvinorum A; all parts of the plant presently classified botanically as salvia dininorum, whether growing or not, the seeds thereof; any extract from any part of such plant, and every compound, manufacture, salts derivative, mixture, or preparation of such plant, its seeds, or extracts;

(ii) (6aR,10aR)-9-(hydroxymethyl)-6, 6dimethyl-3 (2methylocatan-2yl)-6a, 7, 10, 10a-tetrahyrobenzo{c}chromen-1-ol (some trade or other names being: HU-210);

(iii) 1-pentyl-3-(1 naphthoyl) indole (some trade or other names being: JWH-018);

(iv) 1-Butyl-3-(1 naphthoyl) indole (some trade of other names being: JWH-073);

(v) 1-(3{trifluoromethylphenyl}) piperazine (some trade or other names being: TFMPP);

(vi) 3, 4-methylenedioxyprovalerone (MDPV), (some trade or other names being: MDPK);

(vii) 4-methylmethcathinone (Mephedrone);

(viii) 3,4-methylenedioxyethcathinone (Methylone);

(ix) 3,-methoxymethcathinone;

(x) 4-methoxymethcathinone;

(xi) 3-fluoronethcathinone;

(xii) 4-fluoromethcathinone.

(b) Any other substance which mimics the effects of any controlled substance (to include, but not limited to, any opiates, opium derivatives, hallucinogenic substances, methamphetamine, MDMA, cocaine, PCP, marijuana, cannabis, cannabinoids, cannabicyclohexanol, and tetrahydrocannabinoids), to include, but not limited to, "bath salts," "plant food," "incense," or "insect repellent," but excluding legitimate bath

salts containing as the main ingredient the chemicals sodium chloride (sea salt) and/or magnesium sulfate (Epsom salt), or legitimate plant foods or insect repellent not intended for human consumption, or legitimate incense used as an odor elimination product.

(c) Any similar substance to the above which when inhaled, or otherwise ingested, may produce intoxication, stupefaction, giddiness, paralysis, irrational behavior, or in any manner, changes, distorts, or disturbs the auditory, visual, or mental process, and the product or substance had no other apparent legitimate purpose for consumers.

(2) "Deliver" or "delivery" as used in this section shall mean the actual, constructive, or attempted transfer from one (1) person to another of a synthetic drug as defined herein, with or without any consideration, and whether there is an agency relationship.

(3) "Manufacture" as used in this section shall mean the production, preparation, propagation, compounding, conversion, or processing of a synthetic drug as defined herein, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or repackaging of the substance of labeling or re-labeling of its container, except that the term "manufacture" shall not include the preparation, compounding, packaging, or labeling of any synthetic drug as defined herein by:

(a) A practitioner as an incident to administering or dispensing any synthetic drug as defined herein in the course of professional practice; and

(b) A practitioner, or an authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale.

(4) "Administer" as used in this section shall mean the direct application of a synthetic drug as defined herein, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(a) A practitioner or by the practitioner's authorized agent in the practitioner's presence; or

(b) The patient or research subject at the direction and in the presence of the practitioner.

(5) "Agent" as used in this section shall mean an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. "Agent" does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

(6) "Dispense" as used in this section shall mean to deliver a synthetic drug as defined herein to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(7) "Distribute" as used in this section shall mean to deliver other than by administering or dispensing a synthetic drug as defined herein.

(8) "Practitioner" as used in this section shall mean:

(a) A physician, dentist, optometrist, veterinarian, pharmacist, scientific investigator or other person who is licensed, registered, or otherwise lawfully permitted to distribute, dispense, conduct research with respect to, or to administer a synthetic drug as defined herein in the course of professional practice or research in the State of Tennessee; or

(b) A pharmacy, hospital or other institution, licensed, registered, or otherwise lawfully permitted to distribute, dispense, conduct research with respect to, or to administer a synthetic drug as defined herein in the course of professional practice or research in the State of Tennessee.

(9) "Person" as used in this section shall mean any individual, corporation, partnership, trust, estate, association, organization, business, or any other legal entity.

(10) "Sell" or "sale" as used in this section shall mean a bargained-for or agreed upon offer and acceptance and an actual or constructive transfer or delivery of a synthetic drug as defined herein.

(11) "Production" as used in this section shall mean the planting, cultivation, tending, growing, or harvesting of a synthetic drug as defined in this section.

(12) "Possess" or "possession" as used in this section shall mean either actual possession or constructive possession:

(a) "Actual possession" as used in this section shall mean the exercise of direct physical control or dominion over an object.

(b) "Constructive possession" as used in this section shall mean the power and intent to exercise control over an object although not in actual physical possession of an object. Possession may be sole or joint and may be inferred from all relevant facts surrounding the circumstances. (as added by Ord. #380, Oct. 2011)

11-802. Prohibited conduct. (1) It shall be unlawful for any person to use, possess, sell, deliver, distribute, transport, transfer, trade, barter, exchange or purchase any synthetic drug as defined herein, or to attempt to use, possess, sale, deliver, distribute, transport, transfer, trade, barter, exchange or purchase any synthetic drug as defined herein, within the city corporate limits and extending one (1) mile therefrom.

(2) It shall be unlawful for any person to publicly display for sale any synthetic drug as defined herein, within the city corporate limits and extending one (1) mile therefrom. (as added by Ord. #380, Oct. 2011)

11-803. Exception. An act otherwise prohibited and unlawful under this section shall not be unlawful if done by or under the direction of a

"practitioner" as defined herein, provided such act is otherwise permitted by general law, or to otherwise prohibit substances regulated as controlled substances by the United States Food and Drug Administration or the Drug Enforcement Administration, and is not intended to and shall not be construed to supersede any other federal or state law pertaining to synthetic drugs now or hereafter in effect, but to supplement any such laws in so far as lawfully permitted. (as added by Ord. #380, Oct. 2011)

11-804. Civil penalty. Any City of Carthage sworn law enforcement officer is hereby empowered to issue a citation to any person for any violation of the provisions of this section. Citation so issued may be delivered in person to the violator or they may be delivered by registered mail to the person so charged if he cannot be readily found. Any citation so delivered or mailed shall direct the alleged violator to appear in city court on a specific day and at a specific hour stated upon the citation; and the time so specified shall be not less than seventy-two (72) hours after its delivery in person to the alleged violator, or less than ten (10) days of mailing of same. Citation issued for a violation of any of the provisions of this section shall be tried in the General Sessions Court of Smith County. The general sessions judge shall determine whether a defendant has committed a violation of this section, the city shall bear the burden of proof by a preponderance of the evidence. If a defendant pleads guilty or "no contest" to the alleged violation, or is found guilty by the general sessions judge, the judge shall assess a civil monetary fine as a penalty against any person found to have violated any of the provisions of this section, said fine to be in an amount of fifty dollars (\$50.00) for each violation. Each day of violation shall be deemed a separate violation. Each separate package containing any substance containing any synthetic drug as defined herein shall be deemed a separate violation. In addition to the civil monetary fine, any defendant who pleads guilty or "no contest" to the alleged violation, or who is found guilty by the general sessions judge, shall be assessed court costs as provided by law, and in addition shall be ordered to pay an administration fee to the Smith County Court in an amount to recoup the cost incurred by the city law enforcement agency that is used to determine the chemical content of any substance collected from the defendant which formed the basis for any citation charge. Appeal may be had as provided by law. (as added by Ord. #380, Oct. 2011)

11-805. Severability. If any section, subsection, sentence, clause, phrase, paragraph, word or provision or part thereof of this chapter is for any reason held to be invalid or unlawful by any court of competent jurisdiction, such decision shall not be construed to affect the validity of any remaining section, subsection, sentence, clause, phrase, paragraph, word or provision or part thereof and the same shall continue force and effect. (as added by Ord. #380, Oct. 2011)