

## TITLE 11

### MUNICIPAL OFFENSES<sup>1</sup>

#### CHAPTER

1. ALCOHOL.
2. OFFENSES AGAINST THE PEACE AND QUIET.
3. INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL.
4. FIREARMS, WEAPONS AND MISSILES.
5. TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC.
6. MISCELLANEOUS.
7. LITTERING.

#### CHAPTER 1

#### ALCOHOL<sup>2</sup>

#### 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, consume, have an open can, bottle or container of beer, intoxicating liquor in on any public street, alley, avenue, highway, sidewalk, public park, public school ground other public place unless the place has an appropriate permit and license for on premises consumption. (1979 Code, § 10-229, as amended by Ord. #10-2015, Aug. 2015)

**11-102. Minors in beer places.** It shall be unlawful for any beer permit holder, employee, or person engaged in the sale of beer to employ any minor

---

<sup>1</sup>Municipal 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.

<sup>2</sup>Municipal 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).

under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer and to allow any person under twenty-one (21) years of age to loiter in or about place of business. (1979 Code, § 10-222, as replaced by Ord. #10-2015, Aug. 2015)

## CHAPTER 2

### OFFENSES AGAINST THE PEACE AND QUIET

#### SECTION

11-201. Disturbing the peace.

11-202. Anti-noise regulations.

11-203. Violation and penalty.

**11-201. Disturbing the peace.** No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control. (1979 Code, § 10-202, as renumbered by Ord. #10-2015, Aug. 2015)

**11-202. Anti-noise regulations.** Subject to the provisions of this section, the creating of any unreasonably loud, disturbing, and unnecessary noise is prohibited. 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, is prohibited under the following parameters. In residentially and commercially zoned areas, as defined under title 14 of this code, excess of the following decibel limits is prohibited:

|               | <u>Time of Day</u>          |
|---------------|-----------------------------|
| <u>Zoning</u> | <u>11:00 P.M.-7:00 A.M.</u> |
| Residential   | 40 db (A)                   |
| Commercial    | 45 db (A)                   |

Decibel recordings are made with an American National Standards Institute Type II approved device at the approximate location of the property line or the boundary of the public way, at a height of at least four (4) feet above the immediate surrounding surface.

(1) **Miscellaneous prohibited noises enumerated.** The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this section, but this enumeration shall not be deemed to be exclusive, namely:

(a) **Blowing horns.** The sounding of any horn or signal device on any automobile, motorcycle, bus, truck, or vehicle while not in motion except as a danger signal if another vehicle is approaching, apparently out of control, or if in motion, only as a danger signal 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.

(b) Radios, phonographs, etc. The playing of any radio, phonograph, or any musical instrument or sound device, including but not limited to loudspeakers or other devices for reproduction or amplification of sound, either independently of or in connection with motion pictures, radio, or television, in such a manner or with such volume, particularly during the hours between 11:00 P.M. and 7:00 A.M., as to annoy or disturb the quiet, comfort, or repose of persons in any office or hospital, or in any dwelling, hotel, or other type of residence, or of any person in the vicinity.

(c) Yelling, shouting, hooting, etc. Yelling, shouting, whistling, or singing on the public streets, particularly during the hours between 11:00 P.M. and 7:00 A.M., or at any time or place so as to annoy or disturb the quiet, comfort, or repose of any person in any hospital, dwelling, hotel, or other type of residence, or of any person in the vicinity.

(d) 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.

(e) Use of vehicle. The use of any automobile, motorcycle, truck, or vehicle so out of repair, so loaded, or in such manner as to cause loud and unnecessary grating, grinding, rattling, or other noise.

(f) Blowing whistles. The blowing of any steam whistle attached to any stationary boiler, 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 municipal authorities.

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

(h) Building operations. The erection (including excavation), demolition, alteration, or repair of any building in any residential area or section or the construction or repair of streets and highways, particularly during the hours between 11:00 P.M. and 7:00 A.M., 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 11:00 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 11:00

P.M. and 7:00 A.M. upon application being made at the time the permit for the work is awarded or during the process of the work.

(i) Noises near schools, hospitals, churches, etc. The creation of any excessive 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.

(j) Loading and 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.

(k) Noises to attract attention. The use of any drum, loudspeaker, or other instrument or device emitting noise for the purpose of attracting attention to any performance, show, or sale or display of merchandise.

(l) Loudspeakers or amplifiers on vehicles. The use of mechanical loudspeakers or amplifiers on trucks or other moving or standing vehicles for advertising or other purposes.

(2) Exceptions. None of the terms or prohibitions hereof shall apply to or be enforced against:

(a) Municipal vehicles. Any vehicle of the town while engaged upon necessary public business.

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

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. (1979 Code, § 10-234, as replaced by Ord. #2-2008, May 2008, and renumbered and amended by Ord. #10-2015, Aug. 2015)

**11-203. Violation and penalty.** Any violation of any section of this chapter shall subject the offender to a penalty under the general provision of this code. (as added by Ord, #10-2015, Aug. 2015)

### CHAPTER 3

#### **INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL**

##### **SECTION**

11-301. Impersonating a government officer or employee.

11-302. False emergency alarms.

11-303. Violation and penalty.

**11-301. 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. (1979 Code, § 10-211, as renumbered by Ord. #10-2015, Aug. 2015)

**11-302. False emergency alarms.** 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 act. (1979 Code, § 10-217, as renumbered by Ord. #10-2015, Aug. 2015)

**11-303. Violation and penalty.** Any violation of any section of this chapter shall subject the offender to a penalty under the general provision of this code. (as added by Ord. #10-2015, Aug. 2015)

**CHAPTER 4****FIREARMS, WEAPONS AND MISSILES****SECTION**

11-401. Throwing missiles.

11-402. Weapons and firearms generally.

11-403. Violation and penalty.

**11-401. Throwing missiles.** It shall be unlawful for any person maliciously to throw any stone, snowball, bottle, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person. (1979 Code, § 10-213, as renumbered and replaced by Ord. #10-2015, Aug. 2015)

**11-402. Weapons and firearms generally.** It shall be unlawful for any unauthorized person to discharge a firearm within the town. (1979 Code, § 10-214, as renumbered and replaced by Ord. #10-2015, Aug. 2015)

**11-403. Violation and penalty.** Any violation of any section of this chapter shall subject the offender to a penalty under the general provision of this code. (1979 Code, § 10-212, as renumbered and replaced by Ord. #10-2015, Aug. 2015)

## CHAPTER 5

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

- 11-501. Trespassing.
- 11-502. Trespassing on trains.
- 11-503. Malicious mischief.
- 11-504. Interference with traffic.
- 11-505. Violation and penalty.

**11-501. Trespassing.** (1) On premises open to the public.

(a) It shall be unlawful for any person to defy a lawful order, personally communicated to him by the owner or other authorized person, not to enter or remain upon the premises of another, including premises which are at the time open to the public.

(b) The owner of the premises, or his authorized agent, may lawfully order another not to enter or remain upon the premises if such person is committing, or commits, any act which interferes with, or tends to interfere with, the normal, orderly, peaceful or efficient conduct of the activities of such premises.

(2) On premises closed or partially closed to public. It shall be unlawful for any person to knowingly enter or remain upon the premises of another which is not open to the public, notwithstanding that another part of the premises is at the time open to the public.

(3) Vacant buildings. It shall be unlawful for any person to enter or remain upon the premises of a vacated building after notice against trespass is personally communicated to him by the owner or other authorized person or is posted in a conspicuous manner.

(4) Lots and buildings in general. It shall be unlawful for any person to enter or remain on or in any lot or parcel of land or any building or other structure after notice against trespass is personally communicated to him by the owner or other authorized person or is posted in a conspicuous manner.

(5) Peddlers, etc. It shall also be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to promptly leave the private premises of any person who requests or directs him to leave.<sup>1</sup> (1979 Code, § 10-226, as renumbered and replaced by Ord. #10-2015, Aug. 2015)

---

<sup>1</sup>Municipal code reference

Provisions governing peddlers: title 9, chapter 1.



**11-502. Trespassing on trains.** It shall be unlawful for any person to climb, jump, step, stand upon, or cling to, or in any other way attach himself to any locomotive engine or railroad car unless he works for the railroad corporation and is acting the scope of his employment or unless he is a lawful passenger or is otherwise lawfully entitled to be on such vehicle. (1979 Code, § 10-221, as renumbered by Ord. #10-2015, Aug. 2015)

**11-503. 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. (1979 Code, § 10-225, as renumbered by Ord. #10-2015, Aug. 2015)

**11-504. 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. (1979 Code, § 10-232, as renumbered by Ord. #10-2015, Aug. 2015)

**11-504. Violation and penalty.** Any violation of any section of this chapter shall subject the offender to a penalty under the general provision of this code. (as added by Ord. #10-2015, Aug. 2015)

## CHAPTER 6

### MISCELLANEOUS

#### SECTION

- 11-601. Abandoned refrigerators, etc.
- 11-602. Caves, wells, cisterns, etc.
- 11-603. Posting notices, etc.
- 11-604. Curfew for minors.
- 11-605. Wearing masks.
- 11-606. Fishing and swimming in Gap Creek.
- 11-607. Defacing of covered bridges.
- 11-608. False emergency alarms.

**11-601. 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. A violation of this section shall subject the offender to a penalty under the general penalty provision of this code. (1979 Code, § 10-223, as renumbered and amended by Ord. #10-2015, Aug. 2015)

**11-602. 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 an adequate cover or safeguard. A violation of this section shall subject the offender to a penalty under the general penalty provision of this code. (1979 Code, § 10-231, as renumbered and amended by Ord. #10-2015, Aug. 2015)

**11-603. Posting notices, etc.** No person shall fasten, in any way, any show-card, poster, or other advertising device upon any public or private property unless legally authorized to do so. A violation of this section shall subject the offender to a penalty under the general penalty provision of this code. (1979 Code, § 10-227, as renumbered and amended by Ord. #10-2015, Aug. 2015)

**11-604. 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. 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. A violation of this section shall subject the offender to a penalty under the general penalty provision of this code. (1979 Code, § 10-224, as renumbered and amended by Ord. #10-2015, Aug. 2015)

**11-605. 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 the recorder and treasurer to wear a traditional holiday costume.
- (5) A violation of this section shall subject the offender to a penalty under the general penalty provision of this code. (1979 Code, § 10-235, as renumbered and amended by Ord. #10-2015, Aug. 2015)

**11-606. Fishing and swimming in Gap Creek.** It shall be unlawful for any person to fish, sein or otherwise remove or destroy the fish or to swim in the section of Gap Creek which is in the corporate limits of the Town of Cumberland Gap. A violation of this section shall subject the offender to a penalty under the general penalty provision of this code. (Ord. #10-236, Sept. 1993, as renumbered and amended by Ord. #10-2015, Aug. 2015)

**11-607. Defacing of covered bridges.** (1) It shall be unlawful for anyone to hang, display, or write signs or words, or to deface in any manner the surface of covered rail bridges across Brooklyn Street, across Gap Creek, or other locations within the Town of Cumberland Gap. Such covered rail bridges are designated as aesthetic and historical in nature and it is the intent of the board of mayor and alderman that such structures not be defaced in any manner.

(2) Violators of this section shall be subject to a \$50.00 penal fine per day of violation and up to \$500.00 in remedial fines for each offense. (as added by Ord. #4-2004, May 2004, as renumbered by Ord. #10-2015, Aug. 2015)

**11-608. False emergency alarms.** (1) Definitions. Unless it is apparent from the context that another meaning is intended, the following words used in this section shall have the meanings indicated herein:

- (a) "Alarm system" means any assembly of equipment, mechanical or electrical, arranged to signal the fire department and/or police department that an emergency exists or that the services of that department are needed. "Alarm system" shall also mean any alarm device which automatically emits an audible, visual, or other response upon the occurrence of any hazard or emergency and is intended to alert persons outside the building to the existence of said hazard or emergency.

(b) "False emergency alarm." Any signal actuated by an emergency alarm to which the fire department responds which is not the result of fire or other actual emergency and not caused by a violent act of nature.

(c) "Owner and/or operator." A person or persons who reside in or operate a business or residence in which an emergency alarm is connected.

(2) The following schedule of notice, warnings, penalties, and costs shall be assessed to the owners and/or operators of emergency alarm systems for false emergency alarms transmitted to the fire department within any calendar year.

|                      |   |
|----------------------|---|
| First false alarm -  | Verbal notification by a fire department officer.   |
| Second false alarm - | Notice letter informing the owner or operator of the alarm system of the provisions of this chapter.  |
| Third false alarm -  | Warning letter and notice to insure that the alarm system is in proper working order. Once the third false emergency alarm has been received the fire chief shall send, by certified mail, a notice to the owner and/or operator that further false emergency alarms will result in the imposition of a penalty and or costs of providing such service. |
| Fourth false alarm - | A fee assessment of \$25.00 shall be imposed.   |
| Fifth and more -     | A fee assessment of \$50.00 for each additional false alarm.  |

(3) It shall be a violation of this section to intentionally cause a false alarm, and any person who intentionally causes a false alarm shall be subject to the penalty provisions contained herein.

(4) Any alarm business testing or servicing any alarm system shall notify the fire department and/or police department and central dispatch and instruct such department of the location and time of said testing or servicing. The fees provided for will not apply to the alarm user if prior notice of testing or servicing has been made to the department as outlined in this section.

(5) Penalty for offenses. Any person failing to comply with any of the provisions of this section shall be guilty of a violation, and upon conviction in town court, shall be subject to a civil penalty of up to fifty dollars (\$50.00) per offense. Each occurrence shall constitute a separate offense. (as added by Ord. #6-2009, Dec. 2009, as renumbered and amended by Ord. #10-2015, Aug. 2015)

## CHAPTER 7

### LITTERING

#### SECTION

- 11-701. Definitions.
- 11-702. Littering offenses.
- 11-703. Scope of regulation.
- 11-704. Violations and penalty.

**11-701. Definitions.** As used in this chapter, unless the context otherwise requires:

(1) "Commercial purpose" means litter discarded by a business, corporation, association, partnership, sole proprietorship, or any other entity conducting business for economic gain, or by an employee or agent of the entity;

(2) "Garbage" includes putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food;

(3) "Litter" includes garbage, refuse, rubbish and all other waste material, including a tobacco product as defined in Tennessee Code Annotated, § 39-17-1503(9) and any other item primarily designed to hold or filter a tobacco product while the tobacco is being smoked.

(4) "Refuse" includes all putrescible and nonputrescible solid waste; and

(5) "Rubbish" includes nonputrescible solid waste consisting of both combustible and non-combustible waste. (as added by Ord. #10-2015, Aug. 2015)

**11-702. Littering offenses.** (1) A person commits the civil offense of littering who:

(a) Knowingly places, drops or throws litter on any public or private property without permission and does not immediately remove it;

(b) Negligently places or throws glass or other dangerous substances on or adjacent to water to which the public has access for swimming or wading, or on or within fifty feet (50') of a public highway; or

(c) Negligently discharges sewage, minerals, oil products or litter into any public waters or lakes within this state.

(2) Whenever litter is placed, dropped, or thrown from any motor vehicle, boat, airplane, or other conveyance in violation of this section, the town judge may, in his or her discretion and in consideration of the totality of the circumstances, infer that the operator of the conveyance has committed littering.

(3) Whenever litter discovered on public or private property is found to contain any article or articles, including, but not limited to, letters, bills,

publications, or other writings that display the name of a person thereon in such a manner as to indicate that the article belongs or belonged to such person, the town judge may, in his or her discretion and in consideration of the totality of the circumstances, infer that such person has committed littering. (as added by Ord. #10-2015, Aug. 2015)

**11-703. Scope of regulation.** The regulation of litter in this chapter is limited to amounts of litter less than or equal to five pounds (5 lbs.) in weight or seven and one-half (7.5) cubic feet in volume. (as added by Ord. #10-2015, Aug. 2015)

**11-704. Violations and penalty.** Littering is a civil offense punishable by a penalty under the general penalty provision of this code. (as added by Ord. #10-2015, Aug. 2015)