

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

1. ALCOHOL.
2. FORTUNE TELLING, ETC.
3. OFFENSES AGAINST THE PERSON.
4. OFFENSES AGAINST THE PEACE AND QUIET.
5. INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL.
6. FIREARMS, WEAPONS AND MISSILES.
7. TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC.
8. MISCELLANEOUS.
9. EPHEDRINE AND EPHEDRINE RELATED PRODUCTS.
10. HANDBILL ORDINANCE.

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 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. (1980 Code, § 10-229)

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 twenty-one (21) years of age shall loiter in or around, or otherwise frequent any place where beer is sold at retail for consumption on the premises. (1980 Code, § 10-222, modified)

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. (1980 Code, § 10-234)

CHAPTER 3

OFFENSES AGAINST THE PERSON

SECTION

11-301. Assault and battery.

11-301. Assault and battery. It shall be unlawful for any person to commit an assault or an assault and battery. (1980 Code, § 10-201)

CHAPTER 4

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-401. Disturbing the peace.

11-402. Anti-noise regulations.

11-403. Disorderly conduct.

11-401. 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. (1980 Code, § 10-202)

11-402. 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.

(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 other 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, hooting, whistling, or singing on the public streets, particularly between the hours of 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 combustion 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 in any residential area or section, other than 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 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.

(1) 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 city while engaged upon necessary public business.

(b) Repair of streets, etc. 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 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. However, no such use shall be made until a permit therefor is secured from the recorder. Hours for the use of an amplifier or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit. (1980 Code, § 10-233)

11-403. Disorderly conduct. It shall be unlawful for any person to be so boisterous, loud, or disorderly as to disturb the peace and quietude of the City of Portland, or to obstruct the free passage along its streets or sidewalks, or having loud speakers so as to disturb the peace and quietude of same. (1980 Code, § 10-238)

CHAPTER 5

INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

SECTION

11-501. Escape from custody or confinement.

11-502. Impersonating a government officer or employee.

11-503. False emergency alarms.

11-504. Resisting or interfering with city personnel.

11-505. Coercing people not to work.

11-501. Escape from custody or confinement. It shall be unlawful for any person under arrest or otherwise in custody of or confined by the city to escape or attempt to escape, or for any other person to assist or encourage such person to escape or attempt to escape from such custody or confinement. (1980 Code, § 10-209)

11-502. Impersonating a government officer or employee. No person other than an official police officer of the city 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 city. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee. (1980 Code, § 10-211)

11-503. 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. (1980 Code, § 10-217)

11-504. Resisting or interfering with city personnel. It shall be unlawful for any person knowingly to resist or in any way interfere with or attempt to interfere with any officer or employee of the city while such officer or employee is performing or attempting to perform his city duties. (1980 Code, § 10-210)

11-505. 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 is expressly not the purpose of this section to prohibit peaceful picketing. (1980 Code, § 10-230)

CHAPTER 6

FIREARMS, WEAPONS AND MISSILES

SECTION

11-601. Fire bombs.

11-602. Throwing missiles.

11-603. Weapons and firearms generally.

11-601. Fire bombs. It shall be unlawful for any person or persons to throw, explode, place, or have in his possession, a fire bomb, molotov cocktail, or any other device used for malicious destruction. (1980 Code, § 10-213)

11-602. Throwing missiles. It shall be unlawful for any person to throw any stone, snowball, bottle, or any other missile maliciously upon or at any vehicle, building, tree, or other public or private property or upon or at any person. (1980 Code, § 10-214)

11-603. Weapons and firearms generally. It shall be unlawful for any person to carry in any manner whatever, with the intent to go armed, any razor, dirk, knife, blackjack, brass knucks, pistol, revolver, or any other dangerous weapon or instrument except the army or navy pistol which shall be carried openly in the hand. However, the foregoing prohibition shall not apply to members of the United States Armed Forces carrying such weapons as are prescribed by applicable regulations nor to any officer or policeman engaged in his official duties, in the execution of process, or while searching for or engaged in arresting persons suspected of having committed crimes. Furthermore, the prohibition shall not apply to persons who may have been summoned by such officer or policeman to assist in the discharge of his said duties, nor to any conductor of any passenger or freight train of any steam railroad while he is on duty. It shall also be unlawful for any unauthorized person to discharge a firearm within the city. (1980 Code, § 10-212)

CHAPTER 7**TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE
WITH TRAFFIC****SECTION**

- 11-701. Trespassing.
- 11-702. Trespassing on trains.
- 11-703. Malicious mischief.
- 11-704. Interference with traffic.

11-701. 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. (1980 Code, § 10-226)

11-702. 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. (1980 Code, § 10-221)

11-703. 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. (1980 Code, § 10-225)

11-704. 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. (1980 Code, § 10-232)

CHAPTER 8

MISCELLANEOUS

SECTION

11-801. Abandoned refrigerators, etc.

11-802. Caves, wells, cisterns, etc.

11-803. Posting notices, etc.

11-804. Curfew for minors.

11-805. Wearing masks.

11-806. Water tank.

11-807. Riding fire engine.

11-808. Pinball machines.

11-801. 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. (1980 Code, § 10-223)

11-802. 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. (1980 Code, § 10-231)

11-803. 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. (1980 Code, § 10-227)

11-804. Curfew for minors. It shall be unlawful for any person under the age of eighteen (18) years to be abroad at night between 12:00 Midnight 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. (1980 Code, § 10-224)

11-805. 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 city recorder to wear a traditional holiday costume. (1980 Code, § 10-235)

11-806. Water tank. It shall be unlawful for any person to climb upon, disfigure, deface, or injure any water tank maintained by the City of Portland as a part of its municipal water system. (1980 Code, § 10-237)

11-807. Riding fire engine. It shall be unlawful for any person, other than a member of the fire department, to mount or ride upon a fire engine when on duty. (1980 Code, § 10-239)

11-808. Pinball machines. It shall be unlawful for any pinball machine to be operated in a public place within the corporate limits of the City of Portland. The city council is empowered to have the city police remove any other machines used for games of chance which the city council deems a menace to the community. (1980 Code, § 10-240)

CHAPTER 9

EPHEDRINE AND EPHEDRINE RELATED PRODUCTS

SECTION

- 11-901. Sales regulated.
- 11-902. Definitions.
- 11-903. Accessibility of products.
- 11-904. Exemptions.
- 11-905. Employee training.
- 11-906. Registration of purchases.
- 11-907. Penalties for failure to comply.

11-901. Sales regulated. 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 contain 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. #04-11, April 2004)

11-902. Definitions. (1) The use of the terms "ephedrine," "pseudoephedrine," or "phenylpropanolamine" in this chapter shall include the salts, optical isomers, or salts of optical isomers of ephedrine, pseudoephedrine and phenylpropanolamine.

(2) The use of the term "retail establishment" in this chapter 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" in this chapter 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. #04-11, April 2004)

11-903. Accessibility of products. 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. #04-11, April 2004)

11-904. Exemptions. This chapter shall not apply as follows:

- (1) To any products 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 ephedra, pseudoephedrine, or phenylpropanolamine; and
- (4) To the sale or deliver of any products containing ephedrine, pseudoephedrine, or phenylpropanolamine pursuant to the lawful prescription of a person authorized by state law to prescribe such products. (as added by Ord. #04-11, April 2004)

11-905. Employee training. 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 §§ 11-901 or 11-902 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 and phenylpropanolamine, and that the employees had completed the training program. (as added by Ord. #04-11, April 2004)

11-906. 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 purchase.

(3) 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.

(4) This section shall not apply to the sale 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 good legitimate medical purpose. (as added by Ord. #04-11, April 2004)

11-907. Penalties for failure to comply. It is a civil offense to fail to comply with the foregoing regulations. Any violation of these sections is punishable by civil penalty of up to \$50.00. Each day a violation continues under § 11-902 above shall constitute a separate offense. (as added by Ord. #04-11, April 2004)

CHAPTER 10

HANDBILL ORDINANCE

SECTION

- 11-1001. Intent and purpose.
- 11-1002. Definitions.
- 11-1003. Posting notice, placard, bill, etc., prohibited.
- 11-1004. Throwing handbills in public places prohibited.
- 11-1005. Placing handbills in or upon vehicles prohibited.
- 11-1006. Distribution of handbills on uninhabited or vacant private premises prohibited.
- 11-1007. Distribution of handbills where prohibition properly posted.
- 11-1008. Distribution of unsolicited written material.
- 11-1009. Handbills depiction certain matter prohibited.
- 11-1010. Existing ordinances not affected.
- 11-1011. Exemptions.
- 11-1012. Penalty.
- 11-1013. Severability.

11-1001. Intent and purpose. The City Council of the City of Portland finds and declares that to protect the people against the nuisance of and incident to the promiscuous distribution of handbills and circulars, with the resulting detriment and danger to public health and safety, the public interest, convenience and necessity requires in their regulation and to that end the purposes of this ordinance are specifically declared to be as follows:

(1) To protect local residents against trespassing by solicitors, canvassers, or handbill distributors upon the private property of residents if they have given reasonable notice that they do not wish to be solicited by those persons or do not desire to receive handbills or advertising matter;

(2) To protect the people against the health and safety menace and the expense incident to the littering of the streets and public places by the promiscuous and uncontrolled distribution of advertising matter and commercial and non-commercial handbills; and

(3) To preserve the people's constitutional right to receive and disseminate information. (as added by Ord. #09-56, Nov. 2009)

11-1002. Definitions. The following words, terms and phrases, when used in this ordinance, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) "Commercial, handbill" means any printed or written matter, any sample or device, circular, leaflet, pamphlet, paper, booklet, and/or other printed or otherwise reproduced original or copies of any matter or literature:

(a) That advertises for sale any merchandise, product, commodity, or thing;

(b) That directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interests by sales;

(c) That directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, for which an admission fee is charged for the purpose of private gain or profit; but the terms of this clause do not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to the meeting, theatrical performance, exhibition, or event of any kind, when either is held, given, or takes place in connection with the dissemination of information that is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order. Nothing in this ordinance authorizes the holding, giving, or taking place of any meeting, theatrical performance, exhibition, or event of any kind without a license, where a license is or may be required by any law of this state, or under any ordinance of this city;

(d) That while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person engaged as advertiser or distributor.

(2) "Newspaper" means any newspaper of general circulation as defined by general law, any newspaper duly entered with the United States Postal Service, in accordance with federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law. "In addition" means any periodical or current magazine regularly published with not fewer than four (4) issues per year, and sold to the public.

(3) "Non-commercial handbill" means any printed or written matter, any sample or device, circular, leaflet, pamphlet, newspaper, magazine, paper booklet, or any other printed or otherwise reproduced original or copies of any matter or literature not included in the procedure definitions of a commercial handbill or a newspaper.

(4) "Obscene" means material that depicts or describes sexual conduct that is objectionable or offensive to accepted standards of decency that the average person, applying contemporary community standards would find, taken as a whole, appeals to prurient interests or material that depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law, that taken as a whole, lacks serious literary, artistic, political, or scientific value.

(5) "Person" means any person, firm, partnership, association, corporation, company, or organization of any kind.

(6) "Private premises" means any dwelling, house, building, or other structure, designed or used either wholly or in part for private residential

purposes, whether inhabited, uninhabited or vacant, and includes any yard, grounds, walk, driveway, porch, steps, vestibule, or mailbox belonging or appurtenant to that dwelling, house, building, or other structure.

(7) "Public place" means any streets, boulevard, avenues, lanes, alleys, or other public way and public park, square, space, plaza, grounds or buildings. (as added by Ord. #09-56, Nov. 2009)

11-1003. Posting notice, placard, bill, etc., prohibited. It is unlawful to post, stick, stamp, paint or otherwise affix, any notice, placard, bill, card, poster, advertisement, or other paper or device calculated to attract the attention of the public, to or upon any sidewalk, crosswalk, curb or curbstone, flagstone, or any other portion or part of any public way or public place; or any lamp post, electric light, telegraph, telephone, or trolley line pole; railway structure; hydrant; shade tree or tree-box; or upon the piers, columns, trusses, railings, gates, or other parts of any public bridge or viaduct; or other public structure or building; or so cause this to be done, except authorized or required by the laws of the United States, or the State of Tennessee, and the ordinances of the city. (as added by Ord. #09-56, Nov. 2009)

11-1004. Throwing handbills in public places prohibited. It is unlawful for any person to deposit, place, throw, scatter, or cast any commercial or noncommercial handbill in or upon any public place within the city. It is not unlawful for any person to hand out or distribute, without charge to the recipient any commercial or non-commercial handbill in any public place to any person willing to accept the handbill. (as added by Ord. #09-56, Nov. 2009)

11-1005. Placing handbills in or upon vehicles prohibited. It is unlawful for any person to distribute, deposit, place, throw, scatter, or cast any commercial or non-commercial handbill in or upon any automobile or other vehicle. The handing, transmitting, or distribution of any commercial or non-commercial handbill to the owner or other occupant of any automobile or other vehicle, who is willing to accept it, is not unlawful. (as added by Ord. #09-56, Nov. 2009)

11-1006. Distribution of handbills on uninhabited or vacant private premises prohibited. It is unlawful for any person to distribute, deposit, place, throw, scatter, or cast any commercial or non-commercial handbill in or upon any private premises that are uninhabited or vacant. (as added by Ord. #09-56, Nov. 2009)

11-1007. Distribution of handbills where prohibition properly posted. It is unlawful for any person to distribute, deposit, place, throw, scatter or cast any commercial or non-commercial handbill upon any premises, if requested by the owner or occupant not to do so, or if there is placed, on the

premises in a conspicuous position near its entrance a sign bearing the words: "No Trespassing," "No Peddlers or Agents," "No Advertisements," or any similar notice, indicating in any manner that the occupants of this premises do not desire to be molested or to have their right of privacy disturbed, or to have any such commercial or non-commercial handbills left upon its premises. (as added by Ord. #09-56, Nov. 2009)

11-1008. Distribution of unsolicited written materials. (1) It is unlawful to throw, deposit, or distribute any unsolicited written materials in or upon a private premises except by handing or transmitting the written material directly to the owner, occupant, or other person then present in or upon the private premises.

(2) Except where the premises are posted as provided in this section or where anyone upon the premises requests otherwise, unsolicited written materials shall be placed at the premises in:

- (a) A distribution box located on or adjacent to the premises;
 - (b) On a porch nearest the front door;
 - (c) To a place where the materials are securely attached to the front door;
 - (d) Through a mail slot on the front door of the main structure;
- or
- (e) Between the exterior front door, if existent and unlocked, and the interior front door.

(3) Unsolicited written materials shall be contained in a plastic bag ventilated with air holes throughout the surface of the bag or in unventilated plastic bags no greater than six inches (6") in width. The unsolicited materials shall be placed or deposited in a manner preventing the materials from being blown or drifting about the premises or on sidewalks and public streets.

(4) Unsolicited written materials placed at a premises creates a rebuttable presumption that the materials were placed at the premises by the owner, agent, manager, and/or authorized distributor of the business, product, goods, service message, or idea, which is being advertised, promoted, endorsed or conveyed in such materials. (as added by Ord. #09-56, Nov. 2009, and replaced by Ord. #12-12, April 2012)

11-1009. Handbills depiction certain matter prohibited. It is unlawful for any person to post, hand out, distribute or transmit any signs or any handbill:

- (1) That is reasonably likely to incite or to produce imminent lawless action; or
- (2) That is obscene or unlawful. (as added by Ord. #09-56, Nov. 2009)

11-1010. Existing ordinances not affected. This ordinance does not repeal, amend, or modify any ordinance ever ordained, either prohibiting,

regulating, or licensing canvassers, hawkers, peddlers, transient merchants, or any person using the public streets or places for any private business or enterprise, or for commercial sales, not otherwise covered. (as added by Ord. #09-56, Nov. 2009)

11-1101. Exemptions. The terms of this chapter shall not apply to persons working for utility companies in the course of posting notices regarding electric or utility service or those charitable organizations having a current exemption certificate from the Internal Revenue Service issued under section 501(c)(3) of the Internal Revenue Service Code of 1954, as amended, or persons who are members of a United Way or similar "umbrella" organization for charitable or religious organizations. This chapter shall also not apply to persons exercising legitimate First Amendment rights. (as added by Ord. #09-56, Nov. 2009)

11-1012. Penalty. Any person who violates any provision of this ordinance, upon conviction shall be punished by a fine or penalty of not more than fifty dollars (\$50.00) for each offense each day in which an offense continues is a separate offense. (as added by Ord. #09-56, Nov. 2009)

11-1013. Severability. If any provision, or portion of a provision, of this ordinance, or its application to any person or circumstances, is held invalid by a court of competent jurisdiction, the remainder of the ordinance, or the application of the provision to other person or circumstances, shall not be affected. (as added by Ord. #09-56, Nov. 2009)