

## TITLE 11

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

#### CHAPTER

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

#### CHAPTER 1

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

#### SECTION

11-101. Drinking beer, etc., on streets, etc.

**11-101. Drinking beer, etc., on streets, etc.** It shall be unlawful for any person to drink or consume, or have an open container, 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 permit and license for on premises consumption. (1995 Code, § 11-101, modified)

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<sup>1</sup>Municipal code references

- Animals and fowls: title 10.
- Fireworks and explosives: title 7.
- Residential and utilities: title 12.
- 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).

## CHAPTER 2

### OFFENSES AGAINST THE PEACE AND QUIET

#### SECTION

11-201. Disturbing the peace.

11-202. Anti-noise regulations.

**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. (1995 Code, § 11-401)

**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.

(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) 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.

(b) 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.

(c) 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.

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

(e) 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.

(f) 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.

(g) 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.

(h) 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.

(i) 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.

(j) 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 municipality 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 municipality, 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 advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the city clerk. 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.

(3) Loud sound amplification systems in vehicles.

(a) No person operating or occupying a motor vehicle on a street, highway, alley, parking lot, or driveway, whether public or private property, shall operate or permit the operation of any sound amplification system from within the vehicle so that the sound is plainly audible at a distance of fifty (50) or more feet from the vehicle.

(b) "Sound amplification system" means any radio, tape player, compact disc player, loud speaker, or other electronic device used for the amplification of sound.

(c) "Plainly audible" means any sound produced by a sound amplification system from within the vehicle, which clearly can be heard at a distance of fifty feet (50') or more. Measurement standards shall be by the auditory senses, based on direct line of sight. Words or phrases need not be discernible and bass reverberations are included. The motor vehicle may be stopped, standing, parked or moving on a street, highway, alley, parking lot, or driveway on either public or private property.

(d) It is an affirmative defense to a charge under this subsection that the operator was not otherwise prohibited by law from operating the sound amplification system, and that any of the following apply:

(i) The system was being operated to request medical or vehicular assistance or to warn of a hazardous road condition;

(ii) The vehicle was an emergency or public safety vehicle;

(iii) The vehicle was owned and operated by the City of Fayetteville or Fayetteville Public Utilities; or

(iv) The system or vehicle was used in authorized public activities, such as parades, fireworks, sporting events, musical productions, and other activities which have the approval of the board of mayor and aldermen or a department of the city authorized to grant such approval.

(v) The system was used in a public auction of real or personal property held by a licensed auctioneer. (1995 Code, § 11-402, modified)

**CHAPTER 3****FIREARMS, WEAPONS AND MISSILES****SECTION**

11-301. Air rifles, etc.

11-302. Discharging firearms.

**11-301. Air rifles, etc.** It shall be unlawful for any person in the municipality 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. (1995 Code, § 11-601)

**11-302. Discharging firearms.** No unauthorized person shall discharge a firearm within the municipality except as hereinafter stated. Firearms may be discharged on the public shooting range operated by the City of Fayetteville on the land owned by the city and located south and east of the recreational building. No one shall enter upon the designated range grounds or fire a weapon thereon without a permit issued by the department of recreation.

Firearms, specifically and limited only to shotguns, may be discharged on the certified trap and skeet range located on the property owned by Riverside Christian Academy. Certification for the said trap and skeet range shall be provided by the American Trap Association. (1995 Code, § 11-603)

## CHAPTER 4

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

11-401. Trespassing.

11-402. Trespassing on public school grounds, parks, or recreational areas.

11-403. Interference with traffic.

**11-401. Trespassing.** It shall be unlawful for any person to enter or remain in or upon the dwelling house, buildings, or improved or enclosed land of another without right, after having been forbidden so to do by the person who has the lawful control of said premises.

As used in this section a person may be "forbidden so to do" either verbally or by notice posted or exhibited on said premises. (1995 Code, § 11-701)

**11-402. Trespassing on public school grounds, parks, or recreational areas.** No person, except employees of the state, county, or local governments while on duty, shall go or remain on public school grounds, public parks, or public recreation areas between the hours of 11:00 P.M. and 5:00 o'clock A.M. unless attending an event scheduled by the school or recreational board authorities. (1995 Code, § 11-703)

**11-403. 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. (1995 Code, § 11-705)

## CHAPTER 5

### MISCELLANEOUS

#### SECTION

11-501. Posting notices, etc.

11-502. Storage of propane tanks.

11-503. Prohibited sexual activity in establishments offering alcoholic beverages.

11-504. Uncovering public water and sewer pipes.

11-505. Ephedrine control.

**11-501. 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. (1995 Code, § 11-803)

**11-502. Storage of propane tanks.** It shall be unlawful for any person, firm or corporation to store liquid propane gas containers on any outside storage lot unless the same is enclosed by a six foot (6') chain-link fence and gate which is kept securely locked so as to prevent unauthorized entry, and no such tanks shall be stored in the city except in an industrial or C-2 commercial zone. (1995 Code, § 11-804)

**11-503. Prohibited sexual activity in establishments offering alcoholic beverages.** (1) It shall be unlawful for any person to appear in any place or establishment or the premises thereof wherein alcoholic beverages as defined in §§ 8-102(1) and 8-201 of the Fayetteville Municipal Code are offered for sale, and to publicly engage in the actual or simulated displaying of the pubic hair, anus, buttocks, vulva, genitals or breasts below the top of the areola of any person.

(2) It shall be unlawful for any person to permit or allow another to commit any of the acts specified in this section on or about the premises which are owned, managed or operated by such person, or in which such person is employed. (1995 Code, § 11-805)

**11-504. Uncovering public water and sewer pipes.** It shall be unlawful for any person to dig up, uncover, disturb, or damage any public water or sewer pipe. It shall also be unlawful for any person to fail to cover with suitable material and within twenty-four (24) hours any public water or sewer pipe which he has uncovered or caused to be uncovered upon being notified so to do by the chief of police. (1995 Code, § 11-806)

**11-505. Ephedrine control.** (1) Definitions. As used in this section, the following words and/or phrases shall have the following meanings as set forth herein.

(a) "Ephedrine." All forms of ephedrine, pseudoephedrine, ephedrine hydrochloride, pseudoephedrine hydrochloride, phenylpropanolamine and all other combinations of these chemicals.

(b) "Ephedrine produce." Any product that contains ephedrine, its salts, isomers, or salts of isomers, as its sole active ingredient or in combination with less than therapeutically significant quantities of other active ingredients.

(c) "Package." Any number of pills, tablets, capsules, caplets or individual units of a substance held within a container intended for sale.

(d) "Person." Any individual, corporation, partnership, trust, limited liability company, firm, association or other entity selling an ephedrine product to customers.

(e) "Sell." To knowingly furnish, give away, exchange, transfer, deliver, surrender or supply, whether for monetary gain or not.

(2) Restrictions on public access to ephedrine products. It shall be illegal to sell, deliver, or distribute ephedrine, pseudoephedrine, their salts, their optical isomers or salts of their optical isomers, to any person unless that person has a valid prescription to obtain the same from a physician or other healthcare professional licensed to issue prescriptions to be filled by a licensed pharmacist in the State of Tennessee.

(3) Exceptions. The prohibition contained in subsection (2) shall not apply to the sale of animal feed containing ephedrine or dietary supplement products containing naturally occurring or herbal Ephedra and extract of Ephedra.

(4) Reporting theft of ephedrine products. (a) Any person who sells ephedrine products and who discovers a theft, disappearance or other loss of an ephedrine product shall report the theft, disappearance, or loss in writing to the Fayetteville Police Department within twenty-four (24) hours of such discovery.

(b) Any person who sells ephedrine products shall report to the Fayetteville Police Department any difference between the quantities of ephedrine products shipped and the quantity of ephedrine products received within twenty-four (24) hours of discovery.

(5) Penalty and injunctive relief. (a) Each violation of this section shall be considered a separate offense.

(b) The city administrator may institute an action for injunctive relief to enforce the provisions of this section.

(c) Every act or omission constituting a violation of any of the provisions of this section by any agent or employee of any person shall be deemed and held to be the act of such person, and said person shall be punishable in the same manner as if said act or omission had been done

or omitted by him/her/it personally, provided such an act or omission was within the scope of employment or the scope of authority of such agent or employee. (Ord. #2013-08, July 2013)

**CHAPTER 6****CURFEW REGULATIONS****SECTION**

- 11-601. Short title.
- 11-602. Definitions.
- 11-603. Restrictions.
- 11-604. Exceptions.
- 11-605. Violations and penalty.

**11-601. Short title.** This chapter shall be known and may be cited as the "curfew chapter." (1995 Code, § 11-901)

**11-602. Definitions.** For purposes of the curfew chapter the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory.

- (1) "City" is the City of Fayetteville, Tennessee.
- (2) "Minor" or "juvenile" is any unemancipated person under the age of eighteen (18) years or, in equivalent phrasing often herein employed, any person seventeen (17) or less years of age.
- (3) "Parent" is any person having legal custody of a minor:
  - (a) As a natural or adoptive parent;
  - (b) As a legal guardian; or
  - (c) As a person to whom legal custody has been given by order of the court.
- (4) "Remain" means to stay behind, to tarry and to stay unnecessarily upon the streets.
- (5) "Street" is a way or place, of whatsoever nature, open to the use of the public as a matter of right for purposes of vehicular travel or in the case of time, whether Central Standard Time or Central Daylight Saving Time, generally observed at that hour by the public in the city.
- (6) "The police department" shall refer to the Police Department of the City of Fayetteville. (1995 Code, § 11-902)

**11-603. Restrictions.** (1) It shall be unlawful for any minor under eighteen (18) years of age to loiter or remain in or upon any public street, highway, park, vacant lot or other public place within the city during period ending at 5:00 A.M. and beginning at:

- (a) 12:00 A.M. on Saturday and Sunday mornings, and
- (b) 11:00 P.M. on Sunday night through Thursday night.

(2) It shall further be unlawful for a parent of a minor to knowingly permit or by inefficient control to allow such minor to be or remain upon any city street under circumstances not constituting an exception to, or otherwise beyond the scope of, the curfew chapter. The term "knowingly" includes knowledge which a parent should reasonably be expected to have concerning the whereabouts of a minor in that parent's legal custody. It is intended to continue to keep neglectful or careless parents up to a reasonable community standard of parental responsibility through an objective test. It shall be no defense that a parent was completely indifferent to the activities or conduct or whereabouts of such minor child.

(3) It shall further be unlawful for any person, firm or corporation operating or having charge of any public place to knowingly permit minors to remain in their public place under circumstances not constituting an exception to, or otherwise beyond the scope of the curfew chapter. (1995 Code, § 11-903)

**11-604. Exceptions.** The following shall constitute valid exceptions to the operation of the curfew.

(1) At any time, if a minor is accompanied by his or her parent or by his/her spouse who is eighteen (18) years of age or older;

(2) When accompanied by an adult authorized by a parent of such minor to take said parent's place in accompanying said minor for a designated period or time and purpose within a specified area;

(3) Until the hour of 12:30 A.M. if the minor is on an errand as directed by his or her parent;

(4) If the minor is legally employed, for the period from forty-five (45) minutes before to forty-five (45) minutes after work, while going directly between his or her home and place of employment. This exception shall also apply if the minor is in a public place during curfew hours in the course of his or her employment. To come within this exception, the minor must be carrying a written statement of employment issued by employer pursuant to the authorization of the chief of police to expire within ninety (90) days;

(5) When returning home by a direct route from (and within thirty (30) minutes of the termination of) a school activity or an activity of a religious or other voluntary association, or a place of public entertainment, such as a movie, play or sporting event. This exception will not apply beyond 1:30 A.M. if the event is not commercial in nature or does not have a fixed, public known time at which it will or does end, the sponsoring organization must register the event with the Chief of Police of the City of Fayetteville (or his assigned representative) at least twenty-four (24) hours in advance, informing the police department of the time such event is scheduled to begin, the place at which it shall be held, the time at which it shall end and the name of the sponsoring organization;

(6) In the case of reasonable necessity, but only after such minor's parent has communicated to the police department personnel the facts

establishing such reasonable necessity relating to specified streets at a designated time for a describe purpose including place or origin and destination. A copy of such communication, or the police record thereof, duly certified by the chief of police to be correct, an appropriate notation of the time it was received and of the names and addresses of such parent and minor shall constitute evidence of qualification under this exception;

(7) When a minor is, with parental consent, in a motor vehicle engaged, in bona fide interstate travel through the city. This also exempts all interstate travel beginning or ending in the City of Fayetteville. (1995 Code, § 11-904)

**11-605. Violations and penalty.** (1) A police officer of the city who has probable cause to believe that a minor is in violation of this chapter shall:

(a) Ascertain the name and address of the minor and of the minor's parents

(b) Issue the minor a written warning that the minor is in violation of this chapter;

(c) Order the minor to go promptly home by a direct route; and

(d) Notify or cause to be notified by mail the parent of said minor of the curfew violation.

(2) Notwithstanding paragraph (1)(a) of this section, a police officer who has probable cause to believe that minor is in violation of this chapter, shall transport the minor to the police department if:

(a) The minor refuses to give the officer his/her correct name and address; or

(b) Fails to obey the order to go promptly home by a direct route.

(c) Fails to sign the citation stating his/her willingness to appear in court as set out in (3)(a) hereafter.

(3) A police officer of the city shall when the minor has received one previous written warning for violation of this chapter:

(a) Issue a citation for the minor to appear in juvenile court.

(b) Notify or cause to be notified by mail or otherwise the parent of said minor of the violation and the court time and date.

(4) When a minor is taken to the police department, the minor's parents shall be immediately contacted. If after this contact there is still probable cause to believe that the minor was violating this chapter, the minor shall be held until the parent comes to take the minor home. If no parent has arrived within three (3) hours, the minor shall be turned over to custody of the local juvenile authorities until a parent can take custody of him or her.

(5) Any minor violating the provision of this chapter shall be dealt with in accordance with the juvenile court law and procedure. Any parent violating this chapter shall be fined not more than five hundred dollars (\$500.00) for each offense. (1995 Code, § 11-905)

## CHAPTER 7

### LITTERING

#### SECTION

- 11-701. Definitions.
- 11-702. Litter in public and private places.
- 11-703. Sweeping litter into gutters prohibited.
- 11-704. Litter thrown by persons in vehicles.
- 11-705. Owners to maintain premises free from litter.
- 11-706. Violation notices.

**11-701. Definitions.** For the purpose of this chapter, the following words, terms and phrases shall have the following meanings:

(1) "Litter" is paper, wrappings, cigarettes, cardboard, bottles, cans, glass, yard clippings, leaves, wood, bedding, crockery and similar materials.

(2) "Person" is any person, firm, partnership, association, company, or organization of any kind. (1995 Code, § 11-1001)

**11-702. Litter in public and private places.** No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the city, except in public trash receptacles, and no person shall throw or deposit litter upon private property except in private receptacles for collection. (1995 Code, § 11-1002)

**11-703. Sweeping litter into gutters prohibited.** No person shall sweep into or deposit in any gutter, street or other public place within the city the accumulation of litter from any building or lot, or from any public or private sidewalk or driveway. Persons owning or occupying business property shall keep the public sidewalk in front of their premises free of litter. (1995 Code, § 11-1003)

**11-704. Litter thrown by persons in vehicles.** No person, while a driver or a passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the city, or upon private property. (1995 Code, § 11-1004)

**11-705. Owner to maintain premises free of litter.** The owner or person in control of any private property shall at all times maintain the premises free of litter. Provided, however, that this section shall not prohibit the storage of litter in private receptacles for collection. (1995 Code, § 11-1005)

**11-706. Violation notices.** The building official or his authorized delegate is hereby authorized and empowered to notify the owner or person in

control of property, or the agent of such owner or person in control, of any violation of the provisions of this chapter. Such notice shall be mailed to such person's last known address. Provided, however, that failure to send any such notice shall not prevent the invoking of any other penalty for violation of this chapter. (1995 Code, § 11-1006)