

TITLE 11

MUNICIPAL OFFENSES

CHAPTER

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CHAPTER 1

IN GENERAL

SECTION

11-101. Definitions.

11-101. Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. The word "shall"

(1) "Citation" means a written order issued by a peace officer requiring a person accused of violating the law to appear in a designated court or governmental office on a specified date and time.

(2) "City" means City of Maynardville.
is always mandatory and not merely directory.

(3) "City commission" means the board of commissioners of the city.

(4) "Magistrate" means any state judicial officer, including a judge of municipal court, having original trial jurisdiction over misdemeanors or felonies.

(5) "Peace officer" means an officer and employee or agent of government who has a duty to enforce laws or ordinances imposed by law.

(6) "Public place" means any street, alley, park, sidewalk or public building, or any place of business open to the public or frequented by the public or any portion thereof, and any other place which is open to public view or to which the public or any portion thereof has access. (Ord. #0-2007-10, May 2007)

CHAPTER 2

OFFENSES AGAINST THE PUBLIC PEACE

SECTION

- 11-201. Disorderly conduct.
- 11-202. Unlawful assembly.
- 11-203. Disturbing the peace.
- 11-204. Anti-noise regulations.
- 11-205. Violations and penalty.

11-201. Disorderly conduct. (1) A person commits an offense who, in a public place and with intent to cause public annoyance or alarm:

- (a) Engages in fighting or in violent or threatening behavior;
- (b) Refuses to obey an official order to disperse issued to maintain public safety in dangerous proximity to a fire, hazard or other emergency; or
- (c) Creates a hazardous or physically offensive condition by any act that serves no legitimate purpose.

(2) A person also violates this section who makes unreasonable noise which prevents others from carrying on lawful activities. (Ord. #0-2007-10, May 2007)

11-202. Unlawful assembly. Any two (2) or more persons who shall assemble in the city with the intent of being assembled; shall mutually agree to do any unlawful act with force and violence against the property of the city, the person or property of another or against the peace, or to the terror of others; and shall make any movement or preparation therefore shall be guilty of a misdemeanor.

This does not apply to lawful assemblies nor infringe on First Amendment rights. (Ord. #0-2007-10, May 2007, modified)

11-203. 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. (Ord. #0-2007-10, May 2007)

11-204. Anti-noise regulations. (1) 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. 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 response 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.

(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 municipality while engaged upon necessary public business.

(b) Repair of streets, etc. Excavations or repair 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 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 therefore 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. (Ord. #0-2007-10, May 2007, modified)

11-205. Violations and penalty. Violation of the provisions of this chapter is punishable by a fine not to exceed fifty dollars (\$50.00). Each day a prohibited activity shall continue is considered a separate offense.

CHAPTER 3

OFFENSES AGAINST PUBLIC SAFETY

SECTION

- 11-301. Interfering with police officer serving civil process.
- 11-302. Maintenance of dangerous condition.
- 11-303. Barbed wire fences or fences containing spike; electric fences.
- 11-304. Use of motorized vehicles on bicycle/pedestrian facility.
- 11-305. Public intoxication.
- 11-306. Discharge of air guns, spring guns, paint guns, etc.
- 11-307. Violations and penalty.

11-301. Interfering with police officer serving civil process. It shall be unlawful for any person to interfere with a police officer serving or executing any civil process. (Ord. #0-2007-10, May 2007)

11-302. Maintenance of dangerous condition. It shall be unlawful for any person to permit to be maintained on property owned or occupied by him within the city any cave, cistern, well, hole, opening, pool, pipe or other condition dangerous to life and limb without adequate cover or safeguard. (Ord. #0-2007-10, May 2007, modified)

11-303. Barbed wire fences or fences containing spike; electric fences. It shall be unlawful for any person to erect along or adjacent to any sidewalk in the city any barbed wire fence or any fence containing spikes, unless the height of the barbed wire or spikes is seven (7) feet or greater. It shall also be unlawful for any person to erect, construct or maintain in the city any fence or obstruction which is charged with electricity. Provided, however, that in the case of fences utilized for the purpose of confining livestock such fences may be erected along or adjacent to a sidewalk so long as such fence is no closer than three feet (3) from any sidewalk. (Ord. #0-2007-10, May 2007)

11-304. Use of motorized vehicles on bicycle/pedestrian facility. It shall be unlawful for any person to use motorized vehicles within the right-of-way of any trail or recreational area specifically designated as a bicycle/pedestrian facility by any federal, state or municipal governing authority by law, regulation, ordinance or resolution; provided, however, that this section shall not apply to the use of motorized vehicles when such vehicles are required to meet an emergency where life or health is at risk or to provide continuing police protection of such facilities, or to provide for the continuing upkeep and maintenance of such facilities. (Ord. #0-2007-10, May 2007)

11-305. Public intoxication. It is unlawful for any person to appear in a public place under the influence of a controlled substance or any other intoxicating substance to the degree that:

- (1) Such person may be endangered;
 - (2) There is endangerment to other persons or property; or
 - (3) Such person unreasonably annoys people in the vicinity.
- (Ord. #0-2007-10, May 2007)

11-306. Discharge of air guns, spring guns, paint guns, etc. It shall be unlawful for any person to fire or discharge in a dangerous or reckless manner any air gun, air pistol, air rifle, BB gun, spring gun or spring pistol, paint gun or other device which is calculated or intended to propel or project a pellet, BB, paint pellet or similar projectile, whether propelled by spring, compressed air, expanding gas or other force-producing means or method, within the city. (Ord. #0-2007-10, May 2007)

11-307. Violations and penalty. Violation of the provisions of this chapter is punishable by a fine not to exceed fifty dollars (\$50.00). Each day a prohibited activity continues is considered a separate offense.

CHAPTER 4

OFFENSES AGAINST PUBLIC OR PRIVATE PROPERTY**SECTION**

- 11-401. Interfering with fire hydrant.
- 11-402. Trespassing.
- 11-403. Trespass by use of motor vehicle.
- 11-404. Attachment of signs to barriers constructed or owned by a governmental entity.
- 11-405. Violations and penalty.

11-401. Interfering with fire hydrant. It shall be unlawful for any person to turn the water on or interfere with any fireplug or fire hydrant within the city unless such person is an employee of the city and is using the hydrant in the ordinary course of his employment, except by written permission of the city. (Ord. #0-2007-10, May 2007)

11-402. 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.¹ 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.

11-403. Trespass by use of motor vehicle. (1) It is unlawful for any person who drives, parks, stands, or otherwise operates a motor vehicle on, through or within a parking area, driving area or roadway located on privately owned property which is provided for use by patrons, customer or employees of business establishments upon that property, or adjoining property or for use otherwise in connection with activities conducted upon that property, or adjoining property, after the person has been requested or ordered to leave the property or to cease doing any of the foregoing actions. A request or order under this section may be given by a law enforcement officer or by the owner, lessee, or other person having the right to the use or control of the property, or any authorized agent or representative thereof, including, but not limited to, private security guards hired to patrol the property.

(2) As used in this section, "motor vehicle" includes an automobile, truck, van, bus, recreational vehicle, camper, motorcycle, motor bike, moped, go-cart, all terrain vehicle, dune buggy, and any other vehicle propelled by motor.

(3) A property owner, lessee or other person having the right to the use or control of property may post signs or other notices upon a parking area, driving area or roadway giving notice of this section and warning that violators will be prosecuted; provided, that the posting of signs or notices shall not be a requirement to prosecution under this section and failure to post signs or notices shall not be a defense to prosecution hereunder. (Ord. #0-2007-10, May 2007)

11-404. Attachment of signs to barriers constructed or owned by a governmental entity. It is unlawful to tie, attach or otherwise place any sign, sheet, board, poster, banner, advertisement, or similar item on any fence or barrier if the fence or barrier was constructed by or is owned by a governmental entity. (Ord. #0-2007-10, May 2007)

11-405. Violations and penalty. Violation of the provisions of this chapter is punishable by a fine not to exceed fifty dollars (\$50.00). Each day a prohibited activity continues is considered a separate offense.

¹Municipal code reference

Provisions governing peddlers: title 9, chapter 2.

CHAPTER 5**OFFENSES AGAINST PUBLIC WELFARE****SECTION**

11-501. Fortunetelling.

11-502. Gambling.

11-503. Violations and penalty.

11-501. Fortunetelling. It shall be unlawful for any person to conduct the business of, solicit for, or ply the trade of fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers.

11-502. Gambling. (1) It is unlawful to knowingly engage in gambling.

(2) Gambling means risking anything of value for profit whose return is to any degree contingent on chance, or any games of chance associated with casinos, including, but not limited to, slot machines, roulette wheels and the like. Gambling does not include:

(a) A lawful business transaction.

(b) Annual events operated for the benefit of charitable § 501(c)(3) organizations that are authorized pursuant to a two-thirds (2/3) approval of the General Assembly, so long as such events are not prohibited by the Tennessee Constitution, or a state lottery of the type in operation in Tennessee and authorized by amendment to the Constitution of Tennessee and approved by the General Assembly. (Ord. #0-2007-10, May 2007)

11-503. Violations and penalty. Violation of the provisions of this chapter is punishable by a fine not to exceed fifty dollars (\$50.00). Each day a prohibited activity continues is considered a separate offense.

CHAPTER 6

CURFEW FOR MINORS

SECTION

- 11-601. Purpose.
- 11-602. Definitions.
- 11-603. Curfew enacted; exceptions.
- 11-604. Parental involvement in violation unlawful.
- 11-605. Involvement by owner or operator of vehicle unlawful.
- 11-606. Involvement by operator or employee of establishment unlawful.
- 11-607. Giving false information unlawful.
- 11-608. Enforcement.
- 11-609. Violations and penalty.

11-601. Purpose. The purpose of this chapter is to

- (1) Promote the general welfare and protect the general public through the reduction of juvenile violence and crime within the town;
- (2) Promote the safety and well-being of minors, whose inexperience renders them particularly vulnerable to becoming participants in unlawful activity, particularly unlawful drug activity, and to being victimized by older criminals; and
- (3) Foster and strengthen parental responsibility for children.

11-602. Definitions. As used in this chapter, the following words have the following meanings:

- (1) "Curfew hours" means the hours of 12:30 A.M. through 6:00 A.M. each day.
- (2) "Emergency" means unforeseen circumstances, and the resulting condition or status, requiring immediate action to safeguard life, limb, or property. The word includes, but is not limited to, fires, natural disasters, automobile accidents, or other similar circumstances.
- (3) "Establishment" means any privately-owned business place within the town operated for a profit and to which the public is invited, including, but not limited to, any place of amusement or entertainment. The word "operator" with respect to an establishment means any person, firm, association, partnership (including its members or partners), and any corporation (including its officers) conducting or managing the establishment.
- (4) "Minor" means any person under eighteen (18) years of age who has not been emancipated under Tennessee Code Annotated § 29-31-101, et seq.
- (5) "Parent" means:
 - (a) A person who is a minor's biological or adoptive parent and who has legal custody of the minor, including either parent if custody is shared under a court order or agreement;

(b) A person who is the biological or adoptive parent with whom a minor regularly resides;

(c) A person judicially appointed as the legal guardian of a minor; and/or

(d) A person eighteen (18) years of age or older standing in loco parentis as indicated by authorization by a parent as defined in this definition for the person to assume the care or physical custody of the minor, or as indicated by any other circumstances).

(6) "Person" means an individual and not a legal entity.

(7) "Public place" means any place to which the public or a substantial portion of the public has access, including, but not limited to: streets, sidewalks, alleys, parks, and the common areas of schools, hospitals, apartment houses or buildings, office buildings, transportation facilities, and shops.

(8) "Remain" means

(a) to linger or stay at or upon a place or

(b) to fail to leave a place when requested to do so by a law enforcement officer or by the owner, operator, or other person in control of that place.

(9) "Temporary care facility" means a non-locked, non-restrictive shelter at which a minor may wait, under visual supervision, to be retrieved by a parent. A minor waiting in a temporary care facility may not be handcuffed or secured by handcuffs or otherwise to any stationary object.

11-603. Curfew enacted; exceptions. It is unlawful for any minor, during curfew hours, to remain in or upon any public place within the town, to remain in any motor vehicle operating or parked on any public place within the town, or to remain in or upon the premises of any establishment within the town, unless:

(1) The minor is accompanied by a parent; or

(2) The minor is involved in an emergency; or

(3) The minor is engaged in an employment activity, or is going to or returning home from employment activity, without detour or stop; or

(4) The minor is on the sidewalk directly abutting a place where he or she resides with a parent; or

(5) The minor is attending an activity supervised by adults and sponsored by a school, religious, or civic organization, by a public organization or agency, or by a similar organization, or the minor is going to or returning from such an activity without detour or stop; or

(6) The minor is on an errand at the direction of a parent, and the minor has in his or her possession a writing signed by the parent containing the name, signature, address, and telephone number of the parent authorizing the errand, the telephone number where the parent may be reached during the errand, the name of the minor, and a brief description of the errand, the minor's

destination(s) and the hours the minor is authorized to be engaged in the errand; or

(7) The minor is involved in interstate travel through, or beginning or terminating in, the City of Maynardville; or

(8) The minor is exercising First Amendment rights protected by the U.S. Constitution, such as the free exercise of religion, freedom of speech, and freedom of assembly.

11-604. Parental involvement in violation unlawful. It is unlawful for a minor's parent knowingly to permit, allow, or encourage a violation of § 11-603 of this chapter.

11-605. Involvement by owner or operator of vehicle unlawful. It is unlawful for a person who is the owner or operator of a motor vehicle knowingly to permit, allow, or encourage a violation of § 11-603 of this chapter using the motor vehicle.

11-606. Involvement by operator or employee of establishment unlawful. It is unlawful for the operator or any employee of an establishment knowingly to permit, allow, or encourage a minor to remain on the premises of the establishment during curfew hours. It is a defense to prosecution under this section that the operator or employee promptly notified law enforcement officials that a minor was present during curfew hours and refused to leave.

11-607. Giving false information unlawful. It is unlawful for any person, including a minor, knowingly to give a false name, address, or telephone number to any law enforcement officer investigating a possible violation of § 11-603 of this chapter. Each violation of this section is punishable by a maximum fine of fifty dollars (\$50.00).

11-608. Enforcement. (1) Minors. Before taking any enforcement action, a law enforcement officer who is notified of a possible violation of § 11-603 shall make an immediate investigation to determine whether or not the presence of the minor in a public place, motor vehicle, or establishment during curfew hours is a violation of that section. If the investigation reveals a violation and the minor has not previously been issued a warning, the officer shall issue a verbal warning to the minor to be followed by a written warning mailed by the police department to the minor and his/her parent(s). If the minor has previously been issued a warning for a violation, the officer shall charge the minor with a violation of § 11-603 and shall issue a citation requiring the minor to appear in court. In either case, the officer shall, as soon as practicable, release the minor to his/her parent(s) or place the minor in a temporary care facility for a period not to exceed the remainder of the curfew hours so the parent(s) may retrieve the minor. If a minor refuses to give an officer his/her name and address

or the name and address of his/her parent(s), or if no parent can be located before the end of the applicable curfew hours, or if located, no parent appears to accept custody of the minor, the minor may be taken to a crisis center or juvenile shelter and/or may be taken to a judge or juvenile intake officer of the juvenile court to be dealt with as required by law.

(2) Others. If an officer's investigation reveals that a person has violated §§ 11-603, § 11-604, § 11-605, or § 11-606 of this chapter and the person has not been issued a warning with respect to a violation, the officer shall issue a verbal warning to the person to be followed by a written warning mailed by the police department to the person. If there has been a previous warning to the person, the officer shall charge the person with a violation and issue a citation directing the person to appear in court.

11-609. Violations and penalty. A violation of § 11-603, § 11-604, § 11-605, or § 11-606 subsequent to receiving a verbal warning as provided in § 11-608 is punishable by a maximum fine of fifty dollars (\$50.00) for each violation.

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) "Garbage" includes putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food;
- (2) "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.
- (3) "Refuse" includes all putrescible and non-putrescible solid waste; and
- (4) "Rubbish" includes non-putrescible solid waste consisting of both combustible and non-combustible waste. (Ord. #2008-3, March 2008)

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 city 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 no 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 city judge may, in his or her discretion and in consideration of the totality of the

circumstances, infer that such person has committed littering. (Ord. #2008-3, March 2008)

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 1/2) cubic feet in volume. (Ord. #2008-3, March 2008)

11-704. Violations and penalty. Littering is a civil offense punishable by a penalty of a fifty dollar (\$50.00) fine. (Ord. #2008-3, March 2008)