

TITLE 11**MUNICIPAL OFFENSES¹****CHAPTER**

1. MISDEMEANORS OF THE STATE ADOPTED.
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CHAPTER 1**MISDEMEANORS OF THE STATE ADOPTED****SECTION**

11-101. Misdemeanors of the state adopted.

11-101. Misdemeanors of the state adopted. Except where prohibited by state law, all offenses against the State of Tennessee which are committed within the corporate limits and which are defined by the state law or are recognized by the common law to be misdemeanors are hereby designated and declared to be offenses against this municipality also. Any violation of any such law within the corporate limits is also a violation of this section. (1991 Code, § 11-101)

¹Municipal code references

Animal control: title 10.

Housing and utility codes: title 12.

Fireworks and explosives: title 7.

Traffic offenses: title 15.

Streets and sidewalks (non-traffic): title 16.

CHAPTER 2**ALCOHOL**¹**SECTION**

11-201. Drinking beer, etc., on streets, etc.

11-202. Minors in beer places.

11-203. Violation and penalty.

11-201. Drinking beer, etc., on streets, etc. It shall be unlawful for any person to drink or consume, or have an open can or bottle of beer or intoxicating liquor 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. (1991 Code, § 11-228, modified)

11-202. Minors in beer places. No one 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. (1991 Code, § 11-222)

11-203. Violation and penalty. Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.

¹Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

State law reference

See Tennessee Code Annotated § 39-17-310 (Arrest for Public Intoxication), cities may not pass separate legislation).

CHAPTER 3**FORTUNE TELLING, ETC.****SECTION**

11-301. Fortune telling, etc.

11-302. Violation and penalty.

11-301. Fortune telling, etc. It shall be unlawful for any person to conduct the business of, solicit for, or ply the trade of fortune teller, clairvoyant, hypnotist, palmist, phrenologist, or other mystic endowed with supernatural powers. (1991 Code, § 11-234, modified)

11-302. Violation and penalty. A violation of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.

CHAPTER 4

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-401. Disturbing the peace.

11-402. Anti-noise regulations.

11-403. Violation and penalty.

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. (1991 Code, § 11-202)

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 Monday through Friday and on Saturday between the hours of 8:00 A.M. and 6:00 P.M., except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building official or his designee granted for a period while the emergency continues not to exceed thirty (30) days. If the building official or his designee 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 during hours other than allowed herein; 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 during hours other than specifically allowed herein, 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) Town vehicles. Any vehicle of the town 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 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. However, no such use shall be made until a permit therefor is secured from the town 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. (1991 Code, § 11-233, modified)

11-403. Violation and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day an offense occurs constitutes a separate violation.

CHAPTER 5**INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL**¹**SECTION**

11-501. Impersonating a government officer or employee.

11-502. False emergency alarms.

11-503. Violation and penalty.

11-501. 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. (1991 Code, § 11-211)

11-502. False emergency alarms. It shall be unlawful for any person to intentionally 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. Property owners of homes or businesses that have building alarm systems are responsible for ensuring that alarms are not set off except in cases of emergency. For all false alarms, whether set off intentionally, accidentally, or due to malfunction of the alarm system, over three (3) in a calendar year, fines will be assessed to the property owner or lessor, as applicable, as established in the fee schedule. (1991 Code, § 11-217, modified)

11-503. Violation and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day an offense occurs constitutes a separate violation.

¹Municipal code reference
Law enforcement: title 6.

CHAPTER 6

FIREARMS, WEAPONS AND MISSILES

SECTION

11-601. Air rifles, etc.

11-602. Throwing of missiles.

11-603. Discharge of firearm within town prohibited.

11-604. Violation and penalty.

11-601. Air rifles, etc. (1) It shall be unlawful for any person in the town to discharge any air gun, air pistol, air rifle, "BB" gun, paintball gun, or sling shot capable of discharging a metal, plastic or any other kind of material, bullet or pellet, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method in a reckless manner. For purposes of this section only reckless shall refer to a person who is aware of but consciously disregards a substantial and unjustifiable risk of harm to person or property.

(2) Sporting events, utilizing such items as listed in subsection (1), shall be an exception to the prohibitions in subsection (1), if such sporting events are in a contained area and have been approved in advance by the chief of police.

(3) It shall be unlawful to discharge any item listed in subsection (1) from or across any street, alley, public way, or railroad right of way. It shall be unlawful to discharge or possess any item listed in subsection (1) in any municipal building or in any municipal park, except as approved in writing under terms and conditions set forth by the town manager. (1991 Code, § 11-213, modified)

11-602. Throwing of 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, or other public or private property or upon or at any person. (1991 Code, § 11-214, modified)

11-603. Discharge of firearm within town prohibited. It shall be unlawful for any unauthorized person to discharge a firearm within the town. (1991 Code, § 11-212, modified)

11-604. Violation and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day an offense occurs constitutes a separate violation.

CHAPTER 7

**TRESPASSING AND INTERFERENCE
WITH TRAFFIC****SECTION**

11-701. Trespassing.

11-702. Interference with traffic.

11-703. Violation and penalty.

11-701. 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.¹

11-702. 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

¹Municipal code reference

Provisions governing peddlers: title 9, chapter 1.

with the free passage of pedestrian or vehicular traffic thereon. (1991 Code, § 11-232)

11-703. Violation and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day an offense occurs constitutes a separate violation.

CHAPTER 8

MISCELLANEOUS

SECTION

- 11-801. Abandoned refrigerators, etc.
- 11-802. Caves, wells, cisterns, etc.
- 11-803. Posting notices, etc.
- 11-804. Disorderly conduct.
- 11-805. Violation of airport authority rules and regulations.
- 11-806. Violation and penalty.

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, or otherwise sealing the door in such a manner that it cannot be opened by any child. (1972 Code, § 11-223, modified)

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. (1991 Code, § 11-231)

11-803. Posting notices, etc. No person shall paint, make or fasten, in any way, any show-card, poster, or other advertising device or sign upon any public or private property unless legally authorized to do so. (1991 Code, § 11-227, modified)

11-804. 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 disburse issued to maintain public safety in dangerous proximity to a fire, hazard or other emergency; or
- (c) Creates a hazard 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. (1991 Code, § 11-236)

11-805. Violation of airport authority rules and regulations. Any violation of the rules and regulations of the Metropolitan Airport Authority, dated September 1, 1970 including any updates, amendments or authorized replacements, is declared to be a misdemeanor of the Town of Smyrna. Said

rules and regulations are of record in the office of the town clerk and are incorporated herein by reference as fully as if copied herein verbatim. (1991 Code, § 11-229, modified)

11-806. Violation and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day an offense occurs constitutes a separate violation.

CHAPTER 9

PUBLIC NUISANCES

SECTION

11-901. Certain public nuisances defined and prohibited.

11-902. Notice of violations.

11-903. Hearing before town judge.

11-904. Abatement of nuisances by town.

11-905. Town clerk to keep files and records.

11-906. Violation and penalty.

11-901. Certain public nuisances defined and prohibited. The allowing or permitting (1) of debris, rubbish, trash, tin cans, bottles, papers, or stagnant water to accumulate, (2) or a dense growth of trees, vines, grass, and underbrush to develop, (3) or any property which is in a filthy or deteriorated condition due to fire destruction, natural deterioration, or abandonment or (4) property which is allowed to accumulate unwholesome or offensive matter such as would allow the breeding of flies, rodents, or other vermin on any lot, tract, or parcel of land within the corporate limits of the Town of Smyrna to such an extent that it constitutes a menace to life, property, public health or public welfare is hereby specifically prohibited and declared to be a public nuisance, and also a misdemeanor. (1991 Code, § 11-301)

11-902. Notice of violations. If the town building official determines that conditions exist in violation of the preceding section he shall notify the recorded owner of the property in writing at his last known mailing address of the conditions on the property that constitute a menace to life, property, public health, and/or public welfare and demand that said owner cause such condition or conditions to be remedied immediately. He shall also cause a copy of the notice to be served by a police officer of the Town of Smyrna upon the occupant of said property, if any, or upon any agent of the owner thereof if available. The mailing of such notice shall be sufficient proof thereof, and the delivery of notice shall be equivalent to mailing. If the mailing address of the owner is not known, and the property is unoccupied and the owner has no agent in the Town of Smyrna, the notice shall be posted upon said property as notice to the owner thereof. (1991 Code, § 11-302, modified)

11-903. Hearing before town judge. Within ten (10) days after the mailing of the notice, or the service thereof, the owner of the property shall have the right to have a hearing upon written request to the building official before the town judge to show that said condition or conditions do not exist or to show why the items that are complained of do not constitute a menace to life, property, public health and/or public welfare, or why said condition or conditions

should not be remedied by the Town of Smyrna at the expense of the owner of the property. At such hearing, the Town of Smyrna and the property owner may introduce such witnesses as deemed necessary to show the described condition or conditions existing upon the property. (1991 Code, § 11-303, modified)

11-904. Abatement of nuisances by town. If the condition or conditions described in the notice have not been remedied within ten (10) days after the mailing or service thereof or in the event of a hearing as hereinabove provided, after notice to the property owner, occupant, agent, or notice posted, of the decision of the town judge, the building official shall cause said condition to be remedied by the Town of Smyrna at the expense of the owner of the property. After causing the condition or conditions to be remedied, the building official shall certify to the town clerk the expense incurred in remedying such condition or conditions together with a certificate as to the condition of the property which necessitated the incurring of the expense, a copy of the notice mentioned above with proof of service thereof, and a copy of the result of the hearing before the town judge, if any. The expense shall thereupon become and constitute a lien and charge upon the property which shall be payable with interest at the rate of ten percent (10%) per annum from the date of such certification, until paid, collectable at the time any real property taxes on said property become due and payable to the Town of Smyrna, Tennessee. Such expense and charge shall be a first and prior lien against the property, subject only to the lien for taxes to the County of Rutherford and of the same character as the lien of the Town of Smyrna for municipal taxes. Upon failure of the owner of the property to pay the lien, it may be enforced in the same manner as tax liens in favor of the Town of Smyrna and shall be certified by the town clerk to the back tax attorney along with the certification of other taxes assessed against the property in the town, and not paid when due. Any property owner shall have the right to have a hearing before the town judge to show cause, if any, why such expense and charge should not constitute a lien against his property upon written request for a hearing to the town clerk within ninety (90) days after the lien for taxes is imposed upon the property. Such owner shall also have the right at this hearing to have determined the reasonableness of the expense or charge made by the municipality in remedying the condition or conditions existing upon the property of such owner. (1991 Code, § 11-304, modified)

11-905. Town clerk to keep files and records. The town clerk of the Town of Smyrna shall keep a complete set of files and records relating to such liens, and shall include the amounts of such liens and tax statements thereafter submitted to the owners of lots, tracts, or parcels of land subject to such liens. (1991 Code, § 11-305)

11-906. Violation and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day an offense occurs constitutes a separate violation.

CHAPTER 10**RECYCLABLE MATERIALS**¹**SECTION**

11-1001. Anti-theft and anti-pilferage of recyclable material collection facilities or depository.

11-1001. Anti-theft and anti-pilferage of recyclable material collection facilities or depository. It shall be unlawful for any person to steal, pilfer or rummage through materials deposited in a recyclable material collection facility. (1991 Code, § 11-401)

¹Municipal code reference
Refuse: title 17.

CHAPTER 11

GRAFFITI

SECTION

- 11-1101. Intent and findings.
- 11-1102. Declaration of public nuisance.
- 11-1103. Terms defined.
- 11-1104. Graffiti unlawful.
- 11-1105. Removal of graffiti.
- 11-1106. Notice to owner, possessor of property.
- 11-1107. Authorization to use municipal funds.
- 11-1108. Authorization for the municipality to remove graffiti.
- 11-1109. Authorization to use persons assigned to perform community service.
- 11-1110. Reimbursement to municipality.
- 11-1111. Reward for information.
- 11-1112. Violations.

11-1101. Intent and findings. Graffiti on public and private property is a blighting factor which deteriorates property and also depreciates the value of the property and the value of the adjacent and surrounding properties. The town council of the Town of Smyrna concurs with the findings of the general assembly of the State of Tennessee related to graffiti. It is the town council's intent to provide for the prohibition of the placement of graffiti on public and private property as herein set forth. Graffiti is inconsistent with the town's aesthetic standards, and unless it is quickly removed from public and private properties, other adjacent properties will become the target of graffiti. The existence of graffiti tends to breed community discontent and criminal activity. The prompt removal of graffiti is necessary to prevent its proliferation. While the property and its owner or possessor is a victim of the graffiti, it is always the duty of the property owner or possessor to remove graffiti as soon as reasonably possible. To assist in preventing and controlling the further spread of graffiti, town council authorizes the use of town funds to remove graffiti on public and private property as set forth herein and as provided in accordance with Tennessee Code Annotated, §6-54-127. (Ord. #06-47, Oct. 2006)

11-1102. Declaration of public nuisance. For the purpose of promoting the public safety, health, welfare, convenience and enjoyment, to protect the public investment in public property, and to preserve and enhance the scenic beauty of property visible from publicly owned property, the town council of the Town of Smyrna finds and declares that graffiti constitutes a public nuisance that may be abated and curtailed in accordance with the laws of this state. (Ord. #06-47, Oct. 2006)

11-1103. Terms defined. (1) "Advertising" shall for purposes of this section mean any letter, word, name, number, symbol, slogan, message, drawing, picture, writing, or other mark of any kind lawfully placed on property by an owner or tenant of the property, or an agent of such owner or tenant, for the purpose of promoting products or services or conveying information to the public.

(2) "Graffiti" shall mean, without limitation, any letter, word, name, number, symbol, slogan, message, drawing, picture, writing, or other mark of any kind visible to the public that is drawn, painted, chiseled, scratched or etched on a rock, tree, wall, bridge, fences, gate, building or other structure; provided, this definition shall not include advertising or any other letter, word, name, number, symbol, slogan, message, drawing, picture, writing, or other mark of any kind lawfully placed on property by an owner of the property, a tenant of the property, by an authorized agent for such owner or tenant, or unless otherwise approved by the owner or tenant.

(3) "Publicly owned property" shall mean the property owned or controlled by a federal, state, or local governmental entity, including, but not limited to, public parks, streets, roads and sidewalks.

(4) "Tenant" shall mean any person shown by the records of the register of deed's office as a lessee of property, or any person lawfully in actual physical possession of property. (Ord. #06-47, Oct. 2006)

11-1104. Graffiti unlawful. (1) It shall be unlawful for any person to write, paint, inscribe, scratch, scrawl, spray, place or draw graffiti of any type on any public or private building, structure or any other real or personal property.

(2) It shall be unlawful for any person to possess, while in any public building or facility, or while on private property, any of the following materials with the intent to use such materials to violate subsection (1) and/or subsection (3): spray paint containers, paint, ink, marking pens containing non-water soluble fluid, brushes, applicators or other materials for marking, scratching, or etching.

(3) It shall be unlawful for the owner and/or occupant of fixed real or personal property located within the public view to place or give permission to place graffiti, as defined herein, on said real or personal property if the graffiti tends to incite violence by referring to gang or criminal activity, depicts or expresses obscenity as defined by Tennessee Code Annotated, § 39-17-901 or contains defamatory material about a public or private person, except as otherwise allowed by law. (Ord. #06-47, Oct. 2006)

11-1105. Removal of graffiti. It shall be unlawful for any person owning property, acting as manager or agent for the owner of property, or in possession or control of property to fail to remove or effectively obscure any graffiti upon such property. (Ord. #06-47, Oct. 2006)

11-1106. Notice to owner, possessor of property. (1) In the event that the police department finds that graffiti exists, the chief of police or his designee, shall mail or deliver a written order to the owner and possessor of the subject real property, addressed to the owner's last known address and to the property address. Notice may also be accomplished by posting the order in a clearly visible location on the subject property. The written order should contain the following:

- (a) A description of the real estate sufficient for identification;
- (b) Inform the owner/possessor that the police department has found graffiti exists on the property; and
- (c) An order that the owner and/or possessor remove or obliterate the graffiti within fifteen (15) days;
- (d) Inform the owner that graffiti has been declared a public nuisance and that failure to remove the graffiti may result in further civil action by the town; and
- (e) Inform the owner that failure to remove graffiti is unlawful and may result in citation to municipal court.

(2) By written request, the 15-day time period for removal of graffiti may be waived due to weather conditions by the chief of police.

(3) The property owner may also request assistance, in writing, for the graffiti removal based on the owner's inability to perform removal.

(4) A property owner, occupant, or lessee may appeal the order to remove the graffiti by filing a written appeal with the town manager before the expiration of the 15-day time period. The town manager shall place the appeal for consideration by the town council at the next regularly scheduled town council meeting. (Ord. #06-47, Oct. 2006)

11-1107. Authorization to use municipal funds. The municipality may use municipal funds to remove graffiti or other inscribed material from publicly owned real or personal property or privately owned real or personal property visible from publicly owned property and located within the Town of Smyrna and to replace or repair publicly owned property or privately owned property visible from publicly owned property within the Town of Smyrna that has been defaced with graffiti or other inscribed material. The town manager, or his designee, may authorize the use of municipal funds for the purposes described herein in an amount up to one thousand dollars (\$1,000.00). Expenditure of amounts in excess of one thousand dollars (\$1,000.00) shall be submitted for town council approval. (Ord. #06-47, Oct. 2006)

11-1108. Authorization for the municipality to remove graffiti. The municipality may remove graffiti or other inscribed material, or if the graffiti or other inscribed material cannot be removed cost-effectively, repair or replace that portion of the property that was defaced, but the municipality may not paint, repair, or replace other parts of the property that were not defaced

by graffiti. Written consent of the property owner and possessor of the property, if not the same, shall be obtained. The written consent shall contain method of removal of the graffiti. (Ord. #06-47, Oct. 2006)

11-1109. Authorization to use persons assigned to perform community service. The municipality may use persons assigned to perform community service work, as ordered by a general sessions, criminal, or juvenile court, to perform graffiti removal services under supervision. (Ord. #06-47, Oct. 2006)

11-1110. Reimbursement to municipality. In the event the person or persons responsible for the graffiti are convicted and the court orders the offender(s) to pay restitution for the cost of the clean up, and the town has expended funds to remove the graffiti, the restitution shall be directed to the town as reimbursement for the cost of the clean up. (Ord. #06-47, Oct. 2006)

11-1111. Reward for information. The town shall pay a reward of two hundred fifty dollars (\$250.00) to person(s) who report information to the police department, which information leads to the arrest and conviction of any person who unlawfully applies graffiti to any public property or private property visible from the public right-of-way. The determination of the reward shall be made by the chief of police or his designee. (Ord. #06-47, Oct. 2006)

11-1112. Violations. Any person, firm, or corporation, whether owner, occupant, or lessee, violating or failing to comply with any provision of this chapter or any notice or order issued pursuant to its provisions, shall be punished by a fine not to exceed the state authorized maximum of fifty dollars (\$50.00) per violation. Each day that a violation continues shall be deemed a separate offense and punishable as such. (Ord. #06-47, Oct. 2006)

CHAPTER 12**CURFEW****SECTION**

- 11-1201. Purpose.
- 11-1202. Definitions.
- 11-1203. Curfew enacted; exceptions.
- 11-1204. Parental involvement in violation unlawful.
- 11-1205. Involvement by owner or operator of vehicle unlawful.
- 11-1206. Involvement by operator or employee of establishment unlawful.
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11-1201. 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.

11-1202. 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 5:00 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.

11-1203. 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 Town of Smyrna; 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.

11-1204. Parental involvement in violation unlawful. It is unlawful for a minor's parent knowingly to permit, allow, or encourage a violation of § 11-1203 of this chapter.

11-1205. 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 § 11-1203 of this chapter using the motor vehicle.

11-1206. 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.

11-1207. 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 § 11-1203 of this chapter. Each violation of this section is punishable by the state authorized maximum fine as set forth in the fee schedule adopted as part of the annual budget ordinance.

11-1208. Enforcement. (1) Minors. Before taking any enforcement action, a law enforcement officer who is notified of a possible violation of § 11-1203 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, the officer may charge the minor with a violation of § 11-1203 and may issue a citation requiring the minor to appear in juvenile court. The officer shall, as soon as practicable, release the minor to his/her parent(s). 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, 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 §§ 11-1203, 11-1204, 11-1205, or 11-1206 of this chapter, the officer may charge the person with a violation and issue a citation directing the person to appear in court, including municipal court.

11-1209. Violation of §§ 11-1203, 11-1204, 11-1205, or 11-1206 punishable by fine. A violation of §§ 11-1203, 11-1204, 11-1205, or 11-1206 is punishable by the state authorized maximum fine as set forth in the fee schedule adopted as part of the annual budget ordinance.

11-1210. Severability. If any portion of this chapter is declared invalid, other portions that can be given effect without the invalid portion shall remain in effect, and to that end the provisions of this chapter are declared severable.