

## TITLE 11

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

#### CHAPTER

1. MISDEMEANORS OF THE STATE ADOPTED.
2. ALCOHOL.
3. FORTUNE TELLING, ETC.
4. OFFENSES AGAINST THE PEACE AND QUIET.
5. INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL.
6. FIREARMS, WEAPONS AND MISSILES.
7. TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC.
8. MISCELLANEOUS.
9. PANHANDLING ORDINANCE.

#### CHAPTER 1

### MISDEMEANORS OF THE STATE ADOPTED

#### SECTION

11-101. Misdemeanors of the state adopted.

**11-101. Misdemeanors of the state adopted.** 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 the Town of Arlington also. Any violation of any such law within the corporate limits is also a violation of this section. (1994 Code, § 10-101)

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<sup>1</sup>Municipal code references

Animal control: title 10.

Fireworks and explosives: title 1.

Traffic offenses: title 15.

Shelby County codes applicable within town: § 12-101.

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

**CHAPTER 2****ALCOHOL**<sup>1</sup>**SECTION**

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

11-202. Minors in beer places.

**11-201. Drinking beer, etc., on streets, etc.** It shall be unlawful for any person to drink or consume, or have an open container 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 an appropriate permit and/or license for on premises consumption. (1994 Code, § 10-226)

**11-202. Minors in beer places.** No person under eighteen (18) years of age shall loiter in or around, work in, or otherwise frequent any place where beer is sold at retail for consumption on the premises. (1994 Code, § 10-220)

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<sup>1</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 3****FORTUNE TELLING, ETC.****SECTION**

11-301. Fortune telling, etc.

**11-301. Fortune telling, etc.** It shall be unlawful for any person to hold himself forth to the public as a fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers. (1994 Code, § 10-231)

## CHAPTER 4

### OFFENSES AGAINST THE PEACE AND QUIET

#### SECTION

11-401. Disturbing the peace.

11-402. Anti-noise regulations.

**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. (1994 Code, § 10-202)

**11-402. Anti-noise regulations.** Subject to the provisions of this section, the creating of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare, is prohibited.

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

(a) Blowing horns. The sounding of any horn or signal device on any automobile, motorcycle, bus, truck, or other vehicle while not in motion except as a danger signal if another vehicle is approaching, apparently out of control, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.

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

(c) Yelling, shouting, hooting, etc. Yelling, shouting, whistling, or singing on the public streets, particularly between the hours of 11:00 P.M. and 7:00 A.M., or at any time or place so as to annoy or disturb the

quiet, comfort, or repose of any person in any hospital, dwelling, hotel, or other type of residence, or of any person in the vicinity.

(d) Pets. The keeping of any animal, bird, or fowl which by causing frequent or long continued noise shall disturb the comfort or repose of any person in the vicinity.

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

(f) Blowing whistles. The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper municipal authorities.

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

(h) Building operations. The erection (including excavation), demolition, alteration, or repair of any building in any residential area or section or the construction or repair of streets and highways in any residential area or section, other than between the hours of 7:00 A.M. and 6:00 P.M. on week days, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector granted for a period while the emergency continues not to exceed thirty (30) days. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration, or repair of any building or the excavation of streets and highways between the hours of 6:00 P.M. and 7:00 A.M., and if he shall further determine that loss or inconvenience would result to any party in interest through delay, he may grant permission for such work to be done between the hours of 6:00 P.M. and 7:00 A.M. upon application being made at the time the permit for the work is awarded or during the process of the work.

(i) Noises near schools, hospitals, churches, etc. The creation of any excessive noise on any street adjacent to any hospital or adjacent to any school, institution of learning, church, or court while the same is in session.

(j) Loading and unloading operations. The creation of any loud and excessive noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates, and other containers.

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

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

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

(a) Municipal vehicles. Any vehicle of the 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 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. (1994 Code, § 10-230)

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

11-501. Impersonating a government officer or employee.

11-502. Resisting or interfering with town personnel.

**11-501. Impersonating a government officer or employee.** No person shall deceitfully impersonate or represent that he is any government officer or employee. (1994 Code, § 10-210)

**11-502. Resisting or interfering with town personnel.** It shall be unlawful for any person knowingly to resist or in any way interfere with or attempt to interfere with any officer or employee of the town while such officer or employee is performing or attempting to perform his municipal duties. (1994 Code, § 10-209)

## CHAPTER 6

### FIREARMS, WEAPONS AND MISSILES

#### SECTION

11-601. Air rifles, etc.

11-602. Throwing missiles.

11-603. Weapons and firearms generally.

**11-601. Air rifles, etc.** It shall be unlawful for any person in the town 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. (1994 Code, § 10-212)

**11-602. Throwing missiles.** It shall be unlawful for any person to maliciously throw any stone, snowball, bottle, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person. (1994 Code, § 10-213)

**11-603. Weapons and firearms generally.** It shall be unlawful for any unauthorized person to discharge a firearm within the municipality. (1994 Code, § 10-211, modified)

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

11-701. Trespassing.

11-702. Trespassing on trains.

11-703. Interference with traffic.

**11-701. Trespassing.** The owner or person in charge of any lot or parcel of land or any building or other structure within the corporate limits may post the same against trespassers. It shall be unlawful for any person to go upon any such posted lot or parcel of land or into any such posted building or other structure without the consent of the owner or person in charge.

It shall also be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to leave promptly the private premises of any person who requests or directs him to leave. (1994 Code, § 10-223)

**11-702. Trespassing on trains.** It shall be unlawful for any person to climb, jump, step, stand upon, or cling to, or in any other way attach himself to any locomotive engine or railroad car unless he works for the railroad corporation and is acting in the scope of his employment or unless he is a lawful passenger or is otherwise lawfully entitled to be on such vehicle. (1994 Code, § 10-219)

**11-703. 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. (1994 Code, § 10-229)

## CHAPTER 8

### MISCELLANEOUS

#### SECTION

- 11-801. Caves, wells, cisterns, etc.
- 11-802. Posting notices, etc.
- 11-803. Child curfew.
- 11-804. Wearing masks.

**11-801. 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. (1994 Code, § 10-228)

**11-802. 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. (1994 Code, § 10-224)

**11-803. Child curfew.** (1) No minor seventeen (17) years of age shall remain in or upon any public street, highway, park, vacant lot, establishment or other public place within the town during the following time frames:

(a) Sunday through Thursday between the hours of eleven o'clock P.M. (11:00 P.M.) to six o'clock A.M. (6:00 A.M.).

(b) Friday and Saturday between the hours of twelve o'clock (12:00) midnight to six o'clock (6:00 A.M.).

(2) No minor sixteen (16) years of age and under shall remain in or upon any public street, highway, park, vacant lot, establishment or other public place within the town during the following time frames:

(a) Sunday through Thursday between the hours of ten o'clock (10:00 P.M.) to six o'clock A.M. (6:00 A.M.).

(b) Friday and Saturday between the hours of eleven o'clock P.M. (11:00 P.M.) to six o'clock A.M. (6:00 A.M.).

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

(3) Exceptions. The following are valid exceptions to the operation of the curfew:

(a) At any time, if a minor is accompanied by such minor's parent or guardian.

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

(c) Until the hour of twelve-thirty (12:30) A.M. if the minor is on an errand as directed by such minor's parent;

(d) If the minor is legally employed, for the period from forth-five (45) minutes before to forty-five (45) minutes after work, while going directly between the minor's home and place of employment. This exception shall also apply if the minor is in a public place during the curfew hours in the course of the minor's employment. To come within this exception, the minor must be carrying written evidence of employment which is issued by the employer;

(e) Until the hour of twelve-thirty (12:30) A.M. if the minor is on the property of or the sidewalk directly adjacent to the place where such minor resides or the place immediately adjacent thereto, if the owner of the adjacent building does not communicate an objection to the minor and the law enforcement officer;

(f) When returning home by a direct route (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 does not apply beyond one o'clock (1:00) A.M.

(g) In the case of reasonable necessity, but only after such minor's parent has communicated to law enforcement personnel the facts establishing such reasonable necessity relating to specified streets at a designated time for a described purpose including place of origin and destination. A copy of such communication, or the record thereof, an appropriate notation of the time it was received and of the names and addresses of such parent or guardian and minor constitute evidence of qualification under this exception;

(h) When exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly. A minor shall show evidence of the good faith of such exercise and provide notice to the town officials by first delivering to the appropriate law enforcement authority a written communication, signed by such minor, with the minor's home address and telephone number addressed to the mayor of the town specifying when, where and in what manner the minor will be on the streets at night during hours when the curfew is still otherwise applicable to the minor

in the exercise of a First Amendment right specified in such communications; and

(i) When a minor is, with parental consent, in a motor vehicle engaged in good faith interstate travel.

Each of the foregoing exceptions and the limitations are severable.

(4) **Enforcement.** When any child is in violation of this title, the apprehending officer shall act in one (1) of the following ways:

(a) In the case of a first violation, and if in the opinion of the officer such action would be effective, take the child to the child's home and warn and counsel the parents or guardians;

(b) Issue a summons to the child and/or parents or guardians to appear at the juvenile court; or

(c) Bring the child into the custody of the juvenile court for disposition.

A minor violating the provisions of this title shall commit an unruly act, the disposition of which shall be governed pursuant to Tennessee Code Annotated, title 37.

Any parent, guardian, or other person having the care, custody, and control of a minor violating the provisions of this section, upon conviction, shall be fined no more than fifty dollars (\$50.00) for each offense; each violation of the provisions of this section shall constitute a separate offense. (Ord. #1997-16, Oct. 1997)

**11-804. Wearing masks.** It shall be unlawful for any person to appear on or in any public way or place while wearing any mask, device, or hood whereby any portion of the face is so hidden or covered as to conceal the identity of the wearer. The following are exempted from the provisions of this section:

(1) Children under the age of ten (10) years;

(2) Workers while engaged in work wherein a face covering is necessary for health and/or safety reasons;

(3) Persons wearing gas masks in civil defense drills and exercises or emergencies;

(4) Any person having a special permit issued by the town recorder to wear a traditional holiday costume. (1994 Code, § 10-232)

## CHAPTER 9

### PANHANDLING ORDINANCE

#### SECTION

- 11-901. Title.
- 11-902. Purpose--exclusion--scope.
- 11-903. Definitions.
- 11-904. Permit required.
- 11-905. Time of panhandling.
- 11-906. Place of panhandling.
- 11-901. Manner of panhandling.
- 11-908. False or misleading solicitation.
- 11-909. Accosting of persons or obstructing traffic.
- 11-910. Severability.
- 11-911. Penalties for violation.

**11-901. Title.** This chapter shall be known as the panhandling ordinance. (as added by Ord. #2001-03, April 2001)

**11-902. Purpose–exclusion–scope.** (1) Purpose. The purpose of this chapter and legislation is to regulate and punish violations of the act of panhandling, rather than the status of the person.

(2) Exclusion. The activities of panhandling do not include a person who passively stands or sits with a sign or other indication that one is seeking donations, without addressing any solicitation to any specific person other than in response to an inquiry by that person.

(3) Scope. Nothing in this section shall abrogate or abridge provisions of title 9, chapters 2 and 3, solicitation of public funds, or the laws of state and federal government, or those laws regulating nonprofit, religious, educational, civic or benevolent organizations. (as added by Ord. #2001-03, April 2001)

**11-903. Definitions.** For the purposes of this chapter, certain terms shall have the meanings ascribed to them in this section, unless the context clearly indicates otherwise:

(1) "Assault" means assaultive offenses as set out in Tennessee Code Annotated, §§ 39-13-101, 39-13-102 and 39-13-103, and classed as criminal offenses.

(2) "Assault" does not apply to manner of panhandling as set out in title 11, chapter 9, and classed as a misdemeanor.

(3) "Aggressively beg" means to beg with the intent to intimidate another person into giving money or goods.

(4) "Beg" means to ask for money or goods as a charity, whether by words, bodily gesture, signs or other means.

(5) "Donation" means any item of value, monetary or otherwise, accepted by a panhandler.

(6) "Exempt organizations" mean any nonprofit, religious, civic or benevolent organization described in section 501(c) of the Internal Revenue Code of 1986.

(7) "Intimidate" means to engage intentionally in conduct which would make a reasonable person fearful or feel compelled.

Also, for purposes of this chapter, a person commits the offense of intimidating others from exercising civil rights who:

(a) Injures or threatens to injure or coerces another person with the intent to unlawfully intimidate another from the free exercise or enjoyment of any right or privilege secured by the Constitution or laws of the State of Tennessee; or

(b) Injures or threatens to injure or coerces another person with the intent to unlawfully intimidate another because that other exercised any right or privilege secured by the Constitution or laws of the United States or the Constitution or laws of the State of Tennessee.

(8) "Obstruct pedestrian or vehicular traffic" means when a person without legal privilege, intentionally, knowingly or recklessly walks, stands, sits, lies, or places an object in such a manner as another person or a driver of a vehicle to take evasive action to avoid physical contact.

Acts authorized as an exercise of one's constitutional right to picket, or to legally protest, and acts authorized by a permit issued pursuant to this chapter shall not constitute obstruction of pedestrian or vehicular traffic.

(9) "Panhandler" is any person, other than an exempt organization, acting on his or her own behalf, requesting an immediate donation of money or exchange of any services; or any person, acting on his or her own behalf, attempting to sell an item for an amount far exceeding its value, or where the item is already offered free-of-charge to the general public, and a reasonable person would understand that the purchase is in substance a donation.

(10) "Panhandling" is the solicitation of any item of value, monetary or otherwise, made by a person, other than an exempt organization, acting on his or her own behalf, requesting an immediate donation of money or exchange of any services; or any person, acting on his or her own behalf, attempting to sell an item for an amount far exceeding its value, or an item which already offered free-of-charge to the general public, and under circumstances a reasonable person would understand that the purchase is in substance a donation.

(11) "Pedestrian interference" means the obstruction of pedestrian or vehicular traffic by aggressively begging which impedes the passageway or a pedestrian or vehicular traffic.

(12) "Permit" means the permit required under this chapter.

(13) "Public place" means an area generally visible to public view and includes alleys, bridges, buildings, driveways, parking lots, parks, plazas, sidewalks and streets open to the general public including those that serve food

or drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them. (as added by Ord. #2007-03, April 2007)

**11-904. Permit required.** (1) Generally. Any person panhandling within the below described geographical or restricted areas shall be required to have a permit, as issued by the town recorder, or his or her designee, in his or her possession at all times, subject to exhibition on demand by any person, and shall be subject to conditions as set out in the following §§ 11-904 through 11-909.

(2) Restricted geographical areas. Without a permit, persons shall be restricted from panhandling in the following geographical areas:

- (a) Depot Square, and the connector streets;
- (b) Public parks, golf courses;
- (c) Municipal or governmentally owned buildings;
- (d) Municipally owned recreational and exhibition buildings;
- (e) Public library facilities;
- (f) Public or dedicated thoroughfares. (as added by Ord. #2007-03, April 2007)

**11-905. Time of panhandling.** Any person who panhandles after sunset or before sunrise is guilty of a misdemeanor. (as added by Ord. #2007-03, April 2007)

**11-906. Place of panhandling.** Any person who panhandles when the person solicited is in any of the following places is guilty of a misdemeanor:

- (1) At any bus, or train stop;
- (2) In any public transportation vehicle or facility including loading and unloading areas;
- (3) In any vehicle on the street;
- (4) Any area within twenty-five (25) feet (in any direction) of an automatic teller machine or entrance to a bank;
- (5) Schools and playgrounds;
- (6) On private property, unless the panhandler has written permission from the owner or occupant. (as added by Ord. #2007-03, April 2007)

**11-907. Manner of panhandling.** Any person who, in a public place, panhandles in any of the following ways or manner is guilty of a misdemeanor:

- (1) By using profane or abusive language, either during the solicitation or following a refusal;
- (2) By panhandling in a group of two (2) or more persons;
- (3) By any statement, gesture or other communication which a reasonable person in the situation of the person solicited would perceive to be a threat;

- (4) By intimidating or obstructing pedestrian or vehicular traffic;
- (5) By assaulting or aggressively begging. (as added by Ord. #2001-03, April 2001)

**11-908. False or misleading solicitation.** (1) Any person who knowingly makes any false, misuse or misleading representation in the course of soliciting a donation is guilty of a misdemeanor. False or misleading representations include, but are not limited to, the following:

- (a) Stating that the donation is needed to meet a specific need, when the solicitor already has sufficient funds to meet the need and does not disclose that fact;
- (b) Stating that the donation is needed to meet a need which does not exist;
- (c) Stating that the solicitor is from out of town and stranded, when that is not true;
- (d) Wearing a military uniform or other indication of military service, when the solicitor is neither a present nor former member of the service indicated;
- (e) Wearing or displaying an indication of physical disability, when the solicitor does not suffer the disability indicated;
- (f) Use of any makeup or device to simulate any deformity;
- (g) Stating that the solicitor is homeless, when he or she is not;
- (h) Stating the donation is for food but in reality is used for sidewalk drugs or illegal contraband;
- (i) Using and exposing minors/children to hazardous conditions i.e., cold, heat, animals, weather and/or strangers, to solicit funds;
- (j) To offer to sell newspapers, magazines, periodicals or pamphlets for a price, which are offered free-of-charge to the general public.

(2) Any person who solicits a donation stating that the funds are needed for a specific purpose and then spends the funds received for a different purpose is guilty of a misdemeanor.

(3) This chapter and section establish a single offense. Evidence which establishes beyond a reasonable doubt that the defendant violated this chapter and section is sufficient for conviction and need not establish which subsection was violated. (as added by Ord. #2001-03, April 2001)

**11-909. Accosting of persons or obstructing traffic.** Every person who commits any of the following acts is guilty of a misdemeanor:

- (1) Who assaults, aggressively begs, intimidates or accosts other persons in any public place or in any place open to the public, for the purpose of panhandling or soliciting a donation for immediate payment as defined in § 11-903;

(2) Obstructs pedestrian or vehicular traffic, or interferes at a time when a person, or vehicle, is not in a position to walk or drive away;

(3) Who accosts other persons in any public place, or in any place open to the public, for donations if it is a general and known fact to all reasonable people that appropriate institutions, organizations or charity groups exist who make available the same daily necessities and needs at no cost. (as added by Ord. #2007-03, April 2007)

**11-910. Severability.** If any term and/or provision contained herein shall, to any extent, be invalid or unenforceable in any respect under the laws governing this ordinance, the remainder of this ordinance shall not be affected thereby, and each term and/or provision of this ordinance shall be valid and enforceable to the fullest extent permitted by law. (as added by Ord. #2007-03, April 2007)

**11-911. Penalties for violation.** Any person found violating any one or all of the sections of this chapter is deemed guilty of a misdemeanor and upon conviction subject to a civil penalty of fifty dollars (\$50.00) for each separate violation of this chapter. (as added by Ord. #2007-03, April 2007)