

TITLE 11**MUNICIPAL OFFENSES****CHAPTER**

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CHAPTER 1**OFFENSES--MISCELLANEOUS****SECTION**

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11-101. State misdemeanor law adopted. No person shall commit within the city any act which, while not specifically prohibited by this Code or other ordinance, constitutes a misdemeanor under the statutes of the state or at common law and punishable by state statute or common law by fine, imprisonment or both. (1985 Code, § 16-1)

11-102. Return of library materials. (1) Any person or persons having been given temporary custody of books or other materials that are owned by the Johnson City Public Library, a free public library of the city, being ninety (90) days past due in returning said books or materials, who after being notified by certified mail sent to the last known address of said person or persons that said library materials are overdue, and who shall fail to return said books or materials so past due within fifteen (15) days when said notice is posted and pay all fines with reference to said books or materials, or in the alternative shall fail to pay to the library the cost of replacing said books or materials, together with all fines with reference to said overdue books or materials, shall be guilty of a misdemeanor.

(2) In the prosecution of this section, failure to return books or other library materials within fifteen (15) days after the posting of the written past-due notice, above mentioned, shall be prima facie evidence of intent to defraud the city.

(3) A violation of this section shall be punishable by a fine in an amount equal to fifty dollars (\$50.00) per day each day during which said books or materials shall not be returned, after receipt of notice as hereinbefore provided, or twice the replacement value of said books or materials, not to exceed the aggregate sum computed at the rate of fifty dollars (\$50.00) for each day of violation. Said fine may be suspended by the court upon return of said overdue library materials and the payment of the fine for not returning said

materials when due, or upon the payment of the replacement value for such overdue materials and the fine for not returning said materials when due, not to exceed the sum of fifty dollars (\$50.00) for each day of violation. (1985 Code, § 16-2)

11-103. Profane, obscene, etc., language. No person shall use profane, obscene or loud and boisterous language upon the public sidewalks of the city. (1985 Code, § 16-5)

11-104. Assault and battery. It shall be unlawful for any person to commit an assault, or assault and battery, or riot or any disorderly conduct. (1985 Code, § 16-6)

11-105. Injuring, defacing, etc., buildings. No person shall wantonly or carelessly injure, deface or disfigure any building, or fixture attached thereto, or the enclosure thereof, or break, injure, destroy or carry away any of the hose, engines, machinery or apparatus of any kind, or any part thereof, belonging to the city. (1985 Code, § 16-7)

11-106. Injuring, defacing, etc., street signs, etc. No person shall injure, deface or destroy any street sign, guideboard, guidepost, lamppost or lamp or lantern thereon, on any tree, building, fence, post or other thing set, erected or made for the use or ornament of the city, or paint, or draw any word or figure upon any curbstone or sidewalk; or deface any sign, or written or printed notices or placards; and it shall be the duty of the city manager to take cognizance of any violation of the provisions of this section, and report the same immediately to the chief of police. (1985 Code, § 16-8)

11-107. Blasting operations. No person shall blow up stone or earth without a sufficient covering to prevent the rocks, stones or other missiles from being thrown up or escaping abroad. (1985 Code, § 16-9)

11-108. Sale of explosive to minor. No person shall sell, offer for sale or give away to any person, under the age of fifteen (15) years, any percussion caps, fuse, powder, dynamite or other explosives. (1985 Code, § 16-10)

11-109. Trespass. No person shall knowingly or wilfully trespass on the premises of another. (1985 Code, § 16-11)

11-110. Occupying private buildings. No person shall move into, or occupy in any manner, any building belonging to any person, society or religious assembly, without permission from the person in charge of such building. (1985 Code, § 16-12)

11-111. Loitering--generally. (1) No person shall loiter in or sit upon any hallway, window ledge or steps leading into any public building, office building, opera house, church or store.

(2) Nor shall any person habitually loiter about any hotel, restaurant, lunch stand, poolroom or other business house, or place of amusement, unless employed therein, or loiter about or upon or along the streets or other public places. (1985 Code, § 16-13)

11-112. Loitering--obstructing streets. No person shall, in a street, obstruct the free passage of foot travelers, by loitering or sauntering therein, nor shall any person, in any street, loiter or saunter after being directed by a police officer to move on. (1985 Code, § 16-14)

11-113. Loitering--between the hours of midnight and 5:00 a.m.

(1) No person shall loiter upon the streets, alleys, sidewalks or other public ways of the city, or in or around public places or public service stations between the hours of midnight and 5:00 a.m. This prohibition shall apply to all persons whether afoot, on horseback or in an automobile or other vehicle, and any person found upon the streets or other public ways, public places or public service stations shall be deemed guilty of loitering, unless their presence thereon or thereat is for the purpose of carrying on some legitimate social, religious, fraternal or professional engagement.

(2) No person shall prowl around the premises of any person at any time. (1985 Code, § 16-15)

11-114. Removal, damage, etc., of personal property. No person shall remove, damage, deface or otherwise interfere with the personal property of another in the city without the consent of the owner of such property, or his agent. (1985 Code, § 16-16)

11-115. Sale, etc., of tobacco to minors. It shall be unlawful for any person, his employees, agents or servants or anyone for him knowingly to sell, to give, to furnish or procure for any person, under the age of eighteen (18) years, tobacco, smoking tobacco, leaf tobacco or tobacco manufactured in any form. (1985 Code, § 16-19)

11-116. Pinball machines--near school. It shall be unlawful for any person to display, operate or offer for use any pinball machines or similar coin-operated machines at any place within the city, within one hundred (100) yards of any public school, such distance to be measure in a straight line from the closest point on the school ground. (1985 Code, § 16-20)

11-117. Pinball machines--nuisance. The operation of pinball machines in violation of § 11-118 is declared to be a public nuisance. (1985 Code, § 16-21)

11-118. Pinball machines--operation by minors. It shall be unlawful for any owner or operator of any pinball machine or similar coin-operated device to allow any person under the age of eighteen (18) years to play or operate such device during regular school hours or during any curfew imposed by law or ordinance. (1985 Code, § 16-22)

11-119. Abandonment of airtight containers. It shall be unlawful for any person to place or permit to remain outside of any dwelling, building, or other structure, or within any warehouse or storage room or any unoccupied or abandoned dwelling, building or other structure, under such circumstances as to be accessible to children, any icebox, refrigerator or other airtight or semiairtight container which has a capacity of one and one-half (1½) cubic feet or more and an opening of fifty (50) square inches or more and which has a door or lid equipped with a latch or other fastening device capable of securing such door or lid shut. (1985 Code, § 16-23)

11-120. Disturbing the peace. It shall be unlawful for any person to disturb the peace of others by violent, tumultuous, offensive or obstreperous conduct or carriage; or, by loud or unusual noises; or by unseemly, profane, obscene or offensive language; or by language calculated to provoke a breach of peace; or by assaulting, striking or fighting another; or for any person to permit any such conduct in or upon any house or premises under his management or control, so that others in the vicinity are disturbed thereby. (1985 Code, § 16-24)

11-121. Vagrancy. No person shall loiter about gambling houses, or houses of ill fame, or stroll through the city without any visible means of support. (1985 Code, § 16-25)

11-122. Begging. No person shall beg or solicit alms for himself or for his family, or any member thereof, within the city. (1985 Code, § 16-26)

11-123. Discharge of firearms, etc.; fires. No person shall discharge any gun, pistol, rifle or other firearm in the city except:

- (1) In performance of some duty required by law.
- (2) In self defense as necessary to prevent immediate serious bodily injury or death to ones self or others as allowed by state law.
- (3) In practice, training or demonstration at a firing range operated by the city or at other ranges constructed, maintained and operated according to nationally recognized standards provided that the firearms devices can be discharged in a manner that will not permit the projectile fired by such devices

to transverse any area outside the range and provided said ranges are granted or issued a permit by the city.

(4) Upon written permission from the board of commissioners.

(5) In use of a shotgun loaded with shells containing number two shot or smaller as long as the point of discharge is not in or upon any street or public place or within one hundred ten (110) yards thereof nor within one hundred ten (110) yards of any building in the city.

No person shall fire any preparation when gunpowder is an ingredient, or which consists wholly of the same, or make any bonfire in or upon any street or public place within the city. (Ord. #3336, Oct. 1995)

11-124. Air guns, slingshots, etc. (1) Definitions. (a) "Air gun/slingshot" means any gun, rifle, or pistol, by whatever name known, which is designed to expel a paintball, dart, missile, projectile, pellet, or BB shot by the action of compressed air or gas, or by the action of a spring or elastic, and includes a sling shot, wrist rocket, and similar devices used to throw BB shot, rocks, and other projectiles, but does not include any firearm.

(b) "Dealer" means any person engaged in the business of selling or renting air guns/slingshots.

(2) Restrictions on sale, rental, gift, or other transfer. (a) It is unlawful for any dealer to sell, lend, rent, give, or otherwise transfer an air gun/slingshot to any person under the age of eighteen (18) years. It is unlawful for any dealer to sell, lend, rent, give, or otherwise transfer an air gun/slingshot to any person without first obtaining photographic identification showing that person's date of birth.

(b) It is unlawful for any person to sell, lend, rent, give, or otherwise transfer an air gun/slingshot to any person under eighteen (18) years of age, except when the relationship of parent and child, guardian and ward, or adult instructor and pupil exists between such person and the person under eighteen (18) years of age.

(3) Restrictions on use. (a) It is unlawful for any person under eighteen (18) years of age to carry any air gun/slingshot on any streets, alleys, public roads, or public lands unless accompanied by an adult; provided, that said person under eighteen (18) years of age not so accompanied may carry such air gun/slingshot unloaded or in a suitable case or securely wrapped.

(b) It is unlawful for any person to discharge any air gun/slingshot from, across, onto, or into any street, sidewalk, alley, public land, or any public place except on a properly constructed target range.

(c) It is unlawful for any person to discharge any air gun/slingshot on any private parcel of land or residence in such a manner that the pellet, paintball, dart, slingshot, BB shot, rock, missile, or other projectile may reasonably be expected to traverse any ground or space

outside the limits of such parcel of land or residence or in such a manner that persons or property may be endangered.

(d) It is unlawful for any person to discharge any air gun/slingshot in such a manner or under such circumstances that persons or property may be endangered.

(4) Exception. Notwithstanding any provision herein to the contrary, it shall be lawful for any person under eighteen (18) years of age to have in such person's possession any air gun/slingshot if it is:

(a) Kept within such person's domicile;

(b) Used by a person under eighteen (18) years of age, who is a duly enrolled member of any club, team, or society organized for education or training purposes and maintaining as a part of its facilities or having written permission to use an indoor or outdoor target range, when the air gun/slingshot is used at such target range under the supervision, guidance, and instruction of a responsible adult; or

(c) Used in or on any private parcel of land or residence under circumstances in which the air gun/slingshots can be fired, discharged or operated in such manner as not to endanger persons or property and in such manner as to prevent the pellet, paintball, dart, BB shot, rock, missile, or other projectile from traversing any grounds or space outside the limits of such parcel of land or residence.

(5) Violation. Anyone violating any provision of this section shall be subject to the general penalty provisions of § 1-104 of the Code of the City of Johnson City, Tennessee. (1985 Code, § 16-28, as replaced by Ord. #4529-14, March 2014)

11-125. Throwing balls, bows, etc., into streets. No person shall play at any game of ball or football, or throw any stone snowball or other missile, within any street of the city, or have or use for sport, or other purpose, in the streets or other public places, any bow, cross bow, rubber flippers or other devices, by which shot or other projectile is cast, or to shoot from any premises into the streets such devices, so as to endanger life or limb or do injury to person or property. (1985 Code, § 16-29)

11-126. Disturbing lawful assembly or religious service. No person shall molest or disturb any lawful assemblage, or any congregation assembled for religious service, by making a noise, or by rude or indecent behavior or by the use of profane language. (1985 Code, § 16-30)

11-127. Unlawful assembly. Two (2) or more persons shall not assemble with an intent, or being assembled, shall not mutually agree to do any unlawful act with force and violence against the property of the city, or the person or property of another, or against the peace, or the terror of others, or make any movement or preparation therefor. (1985 Code, § 16-31)

11-128. Cemeteries; marking, defacing, etc., monuments, etc.

No person shall throw down, mark, deface or otherwise injure any monument or tombstone in any cemetery, or dig into or disturb any grave within any cemetery, or in any way injure any of the buildings or fences that may be erected for the benefit of any cemetery or burial ground. (1985 Code, § 16-32)

11-129. Drunkenness. No person shall be in an intoxicated condition within the city in any public place, such as a street, square, avenue, alley, hotel, depot, theatre, saloon, restaurant or any other place of public use or assembly. (1985 Code, § 16-33)

11-130. Indecent exposure, language, pictures, etc. No person shall appear in a public place naked or in a lewd or indecent costume, make an indecent exposure of his person, act in lewd manner or use language or sing songs of a lewd or indecent nature, or exhibit, sell or offer for sale, or give away or keep in stock, any picture, book or other thing, or exhibit or perform any play or other representation of a lewd or indecent nature. (1985 Code, § 16-34)

11-131. Material harmful to minors. (1) As used in this section:

(a) “Harmful to minors” means that quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement or sadomasochistic abuse, when it:

(i) Predominantly appeals to the prurient, shameful or morbid interest of minors; and

(ii) Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and

(iii) Is utterly without redeeming social importance for minors; that is, that the description or representation or work, taken as a whole, lacks serious literary, artistic, political or scientific value.

(b) “Knowingly” means having general knowledge of, or reason to know, or a belief or grounds for belief which warrant further inspection or inquiry or both as to:

(i) The character and content of any material described herein which is reasonably susceptible of examination by the defendant; and

(ii) The age of the minor; provided, however, that an honest mistake shall constitute an excuse from liability hereunder if the defendant makes a reasonable, bona fide attempt to ascertain the true age of such minor.

(c) “Minor” means any person under the age of eighteen (18) years.

(d) “Nudity” means the showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernible turgid state.

(e) “Sadomasochistic abuse” means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of the one so clothed.

(f) “Sexual conduct” means acts of masturbation, homosexuality, sexual intercourse or physical contact with a person’s clothed or unclothed genitals, pubic area, buttocks or, if such person is a female, the breasts.

(g) “Sexual excitement” means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

(2) It shall be unlawful for any person knowingly to sell or loan for monetary consideration to a minor:

(a) Any picture, photograph, drawing, sculpture, motion picture film or similar visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors; or

(b) Any book, pamphlet, magazine, printed matter, however reproduced, or sound recording, which contains any matter enumerated in paragraph (a) of subsection (2) hereof, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sadomasochistic abuse and which, taken as a whole, is harmful to minors.

(3) It shall be unlawful for any person knowingly to exhibit for a monetary consideration to a minor or knowingly to sell to a minor an admission ticket or pass or knowingly to admit a minor for a monetary consideration to premises wherein there is exhibited a motion picture, show or other presentation which, in whole or in part, depicts nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors.

(4) A violation of any provision of this section shall constitute an offense for which there shall be, upon conviction thereof, a fine of fifty dollars (\$50.00) for each violation. (1985 Code, § 16-35)

11-132. Fighting, quarreling, etc. (1) It shall be unlawful for any two (2) or more people to fight within the city, or to quarrel in a rude and boisterous manner, in any public place of the city.

(2) No persons shall assemble upon the public sidewalks of the city and engage thereon in boxing, wrestling or in any other forms of violent amusement commonly called “horse play” to the inconvenience or disturbance of persons using or entitled to use such sidewalks. (1985 Code, § 16-36)

11-133. Contamination of springs, etc. No person shall contaminate or render impure any spring, well or cistern within the city. (1985 Code, § 16-37)

11-134. Carrying concealed weapons. Except where permitted by state or federal law, no person shall carry publicly or privately for the purpose of going or being armed, any bowie knife, Arkansas toothpick, dirk, or razor concealed about his person, or any sword cane, Spanish stiletto or pocket pistol, revolver, or any kind of pistol, except the army or navy pistol, usually used in warfare, which shall be carried openly in the hand; or any loaded cane, nun chaku, shearkens, machete, slingshot, brass knuckles or other dangerous weapon. (1985 Code, § 16-38)

11-135. Sale of poison--records. Any person who sells or delivers any poisonous liquid or substance in addition to having the word "Poison" printed or written on the label thereof, as required by law, shall note in a book kept by such person for that purpose, the name of the person to whom such poison was delivered, the date of delivery and the kind and amount of such poison so delivered, and shall keep such book open for public inspection. (1985 Code, § 16-39)

11-136. Sale of poison--minors. It shall be unlawful for any person to sell any child under eighteen (18) years of age any poisonous liquid or drug without an order in writing from the parent, guardian or other person having the legal care of such child, designating such liquid or drug either by its name or its effect. (1985 Code, § 16-40)

11-137. Railroad, etc., whistles. No railroad, or other company, or any employees of same, shall blow or cause to be blown unnecessarily, any whistle upon any engine and in no case shall any whistle be blown longer than five (5) seconds, and each offense shall subject such company or employees to a separate fine. (1985 Code, § 16-41)

11-138. Climbing, displacing, etc., utility poles. No person shall climb upon, displace, break, deface or in any way impair or injure any electric lighting poles, wires or lamps, or any of the poles, wires and similar equipment belonging to any electric or other company. (1985 Code, § 16-42)

11-139. Fireworks. (1) It shall be unlawful for any person to sell or offer for sale, or keep in stock, or give away, within the city, or one (1) mile thereof, any firecracker, cannon cracker, torpedo, Roman candle, sky rocket, pin wheel or any fireworks of any nature whatsoever, or any toy pistol or toy cannon, discharged by percussion caps by percussion caps and gunpowder or other means.

(2) No person shall sell, possess or use fireworks of any description within the city; provided, that this section shall not apply to wholesale dealers and jobbers who may possess fireworks for sale to merchants; provided, further, that this section shall not apply to fairs, shows and exhibitors who desire to give fireworks displays for the amusement of the public; provided, that such displays shall be given under the joint supervision of the exhibitor and the city police department so as to protect the health and welfare of the public, but no such fireworks display shall be given without a permit from the city recorder. (1985 Code, § 16-43)

11-140. Smoking, eating, etc., on transit vehicles. Smoking, eating, chewing of tobacco or drinking is hereby prohibited on city transit vehicles (i.e., buses of the city transit system), and each such offense shall be punishable by a fine not to exceed fifty dollars (\$50.00). (1985 Code, § 16-44)

11-141. Spitting, etc., upon sidewalks, etc., prohibited. No person shall spit or expectorate, discharge the nose or vomit upon the sidewalk, or upon the floors, walls, doors, counters, furniture, stairways or supports of any opera house, theatre, courthouse, office, auditorium, market house, schoolhouse, hotel or other public building or store, or of any vehicle, conveyance or car, or upon any railway platform or depot, within the city limits. (1985 Code, § 16-45)

11-142. Camping on public property. (1) "Camping" means the erection or use of temporary structures such as tents, tarps, and other temporary shelters for living accommodation activities such as sleeping, or making preparations to sleep. "Camping" includes, but is not limited to, the laying down of bedding for the purpose of sleeping, storing personal belongings, making any fire, doing any digging or earth breaking or carrying on cooking activities, whether by fire or use of artificial means such as a propane stove or other heat-producing portable cooking equipment.

(2) It is an offense for a person to engage in the activity of camping on property owned, leased, or controlled by the city that is not specifically designated for use as a camping area by the city, including but not limited to: any public right-of-way (including public sidewalks), public walking trails, public parks (except to the extent allowed in title 20 of the code of the City of Johnson City), The Pavilion at Founders Park, Founders Park, and the pedestrian areas containing flood control measures installed by the city bounded by Roan Street, King Street, Boone/Commerce Streets and State of Franklin Road. (as added by Ord. #4659-18, May 2018)

CHAPTER 2

ADVERTISING

SECTION

- 11-201. Distribution of circulars, handbills, samples of medicine, etc., generally.
- 11-202. Private premises--generally.
- 11-203. Private premises--when depositing, etc., prohibited.
- 11-204. Depositing, etc., handbills in or upon vehicles.
- 11-205. Depositing, etc., in or upon vacant, etc., premises.
- 11-206. Posting notices, etc., to poles, trees, etc.
- 11-207. Posing on buildings, fences, etc.

11-201. Distribution of circulars, handbills, samples of medicine, etc., generally. It shall be unlawful for any person to distribute or circulate, or cause to be distributed or circulated, any handbills, cards, posters or flyers or samples of medicine, or tobacco in or upon the streets, alleys, ways or places of the city or in or upon the premises or property of another within the city. Cards or circulars may be placed under the doors of residences or offices or may be handed to persons on the premises or placed inside of business houses, shops or factories. (1985 Code, § 16-63)

11-202. Private premises--generally. (1) No person shall throw, deposit or distribute any commercial or noncommercial handbill in or upon private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant or other person then present in or upon such private premises.

(2) In the case of inhabited private premises which are not posted, as provided in this chapter, such person, unless requested by any person upon such premises not to do so, may place or deposit any such handbill in or upon such inhabited private premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets or other public places, and except that mailboxes may not be so used when so prohibited by federal postal law or regulations.

(3) The provisions of this section shall not apply to the distribution of mail by the United States, nor to newspapers; except, that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property. (1985 Code, § 16-64)

11-203. Private premises--when depositing, etc., prohibited. No person shall throw, deposit or distribute any commercial or noncommercial handbill upon any private premises, if requested by any person thereon not to

do so, or if there is placed on such premises in a conspicuous position near the entrance thereof, a sign bearing the words: "No Trespassing," "No Peddlers or Agents," "No Advertising" or any similar notice, indicating in any manner that the occupants of such premises do not desire to be molested or have their right of privacy disturbed, or to have any such handbills left upon such premises. (1985 Code, § 16-65)

11-204. Depositing, etc., handbills in or upon vehicles. No person shall throw or deposit any commercial or noncommercial handbill in or upon any vehicle. (1985 Code, § 16-66)

11-205. Depositing, etc., in or upon vacant, etc., premises. No person shall throw or deposit any commercial or noncommercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant. (1985 Code, § 16-67)

11-206. Posting notices, etc., to poles, trees, etc. No person shall post or affix any notice, poster or other paper or device, calculated to attract the attention of the public, to any lamppost, public utility pole or shade tree, or upon any public structure or building, except as may be authorized or required by law. (1985 Code, § 16-68)

11-207. Posting on buildings, fences, etc. No person shall post upon any building, fence, telephone, telegraph or other public service pole, or other structure in the city, any sign, advertisement, picture or notice of any kind, without first having obtained permission so to do from the owner or occupant of such building or other structure. (1985 Code, § 16-69)

CHAPTER 3

PROSTITUTION; ASSIGNATION

SECTION

- 11-301. Definitions.
- 11-302. Prohibited acts.
- 11-303. Commercial sexual practices.
- 11-304. Bawdyhouse--abatement.
- 11-305. Being found in or inmate of bawdyhouse.
- 11-306. Solicitation.

11-301. Definitions. As used in this chapter, the following definitions apply to those acts proscribed herein:

- (1) "Adamitism." The practice of going naked, the state of being unclothed.
- (2) "Anilingus." The erotic stimulation achieved by contact between mouth or tongue and the anus.
- (3) "Assignment." The making of any appointment or engagement for prostitution or for the purpose of fellatio or cunnilingus, or any act in furtherance of such appointment or engagement.
- (4) "Bestiality." Sexual relations between a human being and a lower animal.
- (5) "Coprophilia." The use of feces for sexual excitement.
- (6) "Cunnilingus." Stimulation of the vulva or clitoris with the lips or tongue.
- (7) "Fellatio." The practice of obtaining sexual gratification by oral stimulation of the penis.
- (8) "Flagellation." An act or instance of obtaining sexual gratification by beating, flogging or scourging another or being the recipient of such action.
- (9) "Frottage." Masturbation by rubbing against another person.
- (10) "Masturbation." Erotic stimulation involving the genital organs commonly resulting in orgasm and achieved by manual or other bodily contact or manipulation.
- (11) "Prostitution." The giving or receiving of the body for sexual intercourse for hire (or for licentious sexual intercourse without hire).
- (12) "Sexual intercourse." Carnal copulation, or coitus, between male and female human beings.
- (13) "Sodomy." The penetration of the male organ into the anus of another person.
- (14) "Urolagnia." Sexual excitement associated with the sight or thought of urine or urination. (1985 Code, § 16-86)

11-302. Prohibited acts. No person shall:

- (1) Engage in prostitution;
- (2) Aid or abet prostitution;
- (3) Procure or solicit for purpose of prostitution;
- (4) Keep or set up a house of ill fame, brothel or bawdyhouse;
- (5) Receive any person for purposes of lewdness, assignation or prostitution into any vehicle, conveyance, place, structure or building;
- (6) Permit any person to remain for the purpose of lewdness, assignation or prostitution in any vehicle, conveyance, place, structure or building;
- (7) Lease or rent or contract to lease or rent any vehicle, conveyance, place, structure or building, or part thereof, knowing or with good reason to know that it is intended to be used for any of the purposes herein prohibited; or
- (8) Attempt to do any of the acts prohibited by this section. (1985 Code, § 16-87)

11-303. Commercial sexual practices. (1) It shall be unlawful for any person to procure, offer or to engage in any act of adamitism, anilingus, bestiality, cunnilingus, coprophilia, fellatio, flagellation, frottage, masturbation, sexual intercourse, sodomy or urolagnia for any financial consideration or reward.

(2) The above referred to unlawful acts or conduct, and each and all of the same, are declared to be a nuisance and as such, contrary to the public health, welfare and safety of the citizens and residents of this city.

(3) Any person violating any of the provisions of this section shall, upon conviction thereof, be fined fifty dollars (\$50.00) for each violation, and each day of violation of any provision of this section shall constitute a separate violation. (1985 Code, § 16-88)

11-304. Bawdyhouse—abatement. Any person, upon being notified in writing by the recorder, by a notice served by a policeman of the city, that any house, tenement or building in his possession or under his control is being used as a house of ill fame, and who shall fail within two (2) days after the service of such notice, to institute proceedings to eject therefrom the tenant, so using such house, tenement or building, if such tenant shall not sooner have vacated the same, shall be deemed and held to be guilty of permitting such premises to be used for the purposes prohibited in this chapter. It is further provided that the words “house of ill fame” shall be taken to mean and include the terms “bawdyhouse” and “assignation house.” (1985 Code, § 16-100)

11-305. Being found in or inmate of bawdyhouse. It shall be unlawful for any person to be an inmate of a house of ill fame, or to be found in such house for lewd purpose. (1985 Code, § 16-101)

11-306. Solicitation. It shall be unlawful for any person notoriously abandoned to lewdness to stand upon the sidewalk in front of the premises occupied by such person, or at the alleyway, door or gate of such premises, or to sit upon the steps thereof in an indecent posture, or accost, or stop any person passing by, or to solicit any person on any street or public place to accompany or to meet such person at any place for purposes of prostitution or other violation of this chapter. (1985 Code, § 16-102)

CHAPTER 4**GAMBLING****SECTION**

11-401. Possession of wagering stamp.

11-402. Possession of gambling devices--prohibited.

11-403. Possession of gambling devices--destruction by police.

11-401. Possession of wagering stamp. (1) It shall be unlawful for any person within the city to possess a federal wagering stamp as provided by the provisions of the Revenue Act of 1951, enacted by the Congress of the United States.

(2) The possession of a federal wagering stamp by any person within the city shall be prime facie evidence that such person is engaged in gambling or wagering in violation of this code and the laws of the United States prohibiting gambling and wagering, and that the filing of a tax return and payment of the wagering tax required by the provisions of the Federal Revenue Act of 1951 to the revenue collector by any person within the city shall be conclusive evidence of the violation of this code and the laws of the state by such person.

(3) If any person holding a federal wagering stamp is listed on the tax return as an employee of a holder of a wagering stamp it shall be conclusive evidence of the violation of this code and of the laws of the state by such employee. (1985 Code, § 16-119)

11-402. Possession of gambling devices--prohibited. No person shall have in his possession any gambling table, slot machine, punchboard or other gambling device whatever for the enticement of any person to gamble; provided, however, that this section shall not apply to pay toilets, scales or weighing machines, stamp machines and vending machines, which actually deliver merchandise of a value equal to the amount of money deposited in such machine. (1985 Code, § 16-120)

11-403. Possession of gambling devices--destruction by police. The police department shall destroy all gambling tables, slot machines, punchboards and gambling devices found in the city. (1985 Code, § 16-121)

CHAPTER 5

NOISE

SECTION

- 11-501. Definitions.
- 11-502. Standards.
- 11-503. Maximum permitted sound levels in residential zones.
- 11-504. Maximum permitted sound levels for motor vehicles.
- 11-505. Nuisance noises expressly prohibited.
- 11-506. Exceptions.
- 11-507. Enforcement and penalties.

11-501. Definitions. All terminology used in this chapter, not defined below shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body. The following words and phrases shall have the meanings respectively ascribed to them by this section:

(1) "A-weighted sound level (dBA)." The sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The unit of measurement is dB(A).

(2) "C-weighted sound level (dBC)." The sound pressure level in decibels as measured on the sound level meter using the C-weighted network, which is more sensitive to low-frequency content of a complex sound environment. The unit of measurement is designated dBC.

(3) "Decibel (dB)." Logarithmic unit of measure used in describing the relative level of sound. The unit of measurement is dB.

(4) "Low frequency ambient." The lowest sound level repeating itself during a ten (10) minute measurement period utilizing the dBC slow response weighting. "Low-frequency ambient" is ascertained with the sound turned off at the source of a complaint. Measurement shall be made at the same complaint location for a comparison of the ambient sound level and the sound emanating from the source of a complaint. The ambient sound level shall not be less than 45 dBC for interior residential noise as measured five feet (5') above the floor in the center of a room or 55 dBC for all exterior locations measured at a height of five feet (5') above the ground at any point along or within the property lines as set forth in § 11-503.

(5) "Motor vehicle." Any two (2) or more wheeled vehicle or machine, propelled or drawn by mechanical power and used in the transportation of passengers or property. This shall not include vehicles, locomotives or cars operated exclusively on rail or rails.

(6) "Noise." Any sound which exceeds the maximum permissible sound levels by land use categories as specified in this code and which annoys or disturbs humans and causes or tends to cause an adverse psychological or physiological effect on humans.

(7) "Residential zone." Any location where residential uses are permitted in the Zoning Code of the City of Johnson City, Tennessee.

(8) "Sound level." In decibels, the A-weighted or C-weighted sound pressure level obtained by the use of a calibrated Type 1 or Type 2 sound level meter as specified by the American National Standards Institute [ANSI S1.4-1983 (R2006)/ANSI S1.4a-1985 (R2006)].

(9) "Sound level meter." An instrument for measuring sound, including a microphone, amplifier, output meter and weighting network which is sensitive to pressure fluctuations and shall be at least Type II per ANSI S1.4-1983 specifications. (Ord. #3251, Oct. 1994, as amended by Ord. #4508-13, Oct. 2013)

11-502. Standards. (1) Sound level measurements shall be made with a properly calibrated sound level meter which meets or exceeds the requirements of this chapter and is operated by persons trained in sound level measurement and the operation of sound level measurement equipment.

(2) Sound level measurement shall be made with a sound level meter using the A-weighting scale set on "slow" response for all measurements except that when measuring motor vehicle sounds, "fast" response shall be used.

(3) For low frequency sound including but not limited to music produced by amplification or for any live entertainment (whether amplified or not) or any combination of the same, sound level measurements shall be made using the C-weighting scale set on "slow" response for all measurements. (Ord. #3251, Oct. 1994, as replaced by Ord. #4508-13, Oct. 2013)

11-503. Maximum permitted sound levels in residential zones.

(1) Except as exempted in § 11-506 below, no person, regardless of location, shall operate or cause to be operated any source of sound in such a manner as to create a sound level which, at its maximum, exceeds the limits set forth in this section (noise) when measured at a height of five feet (5') above the ground at any point on the property lines of a complaining residence or within the property lines of a complaining residence. Physical features which are commonly associated with property lines such as back of curb, telephone and street light poles, edge of driveway or parking lot, hedges, perimeter landscape strips, buffers, and fences are presumed to be at a point which is at or within the property lines.

(2) Sound which originates from a dwelling unit in a duplex or other multi-family housing unit or from a source outside the interior walls of a dwelling unit in a duplex or other multi-family housing unit shall be measured within the complaining dwelling unit at a point at five feet (5') above the floor at the center of any room.

(3) The following standards shall govern the allowable sound levels in any residential zoning district. Unless exempted per § 11-506, no noise shall exceed the limits specified below:

- (a) Nighttime -- 55 dBA between 11:00 P.M. and 7:00 A.M.
- (b) Daytime -- 75 dBA between 7:00 A.M. and 11:00 P.M.
- (c) Any time -- 8 dBC above the low frequency ambient noise level as defined in § 11-501. (Ord. #3251, Oct. 1994, as amended by Ord. #3600, July 1998, and replaced by Ord. #4508-13, Oct. 2013)

11-504. Maximum permitted sound levels for motor vehicles.

(1) It shall be unlawful for any person to operate or cause to be operated a public or private motor vehicle, motorcycle or combination of vehicles at any time in such a manner that the sound level of the vehicle exceeds the levels set forth in Table 1 below:

TABLE 1

MAXIMUM MOTOR VEHICLE SOUND LEVEL (dBA)

Vehicle class	Speed limit 35 mph or less	Speed limit over 35 mph
Any motor vehicle with a gross vehicle weight rating (GVWR) of less than 10,000 pounds	81	85
Any motor vehicle with a GVWR of more than 10,000 pounds	89	94
Motorcycles	81	85
Any other motor vehicle or any combination of vehicles towed by any motor vehicle	76	80

(2) Sound levels are to be measured at a distance of at least fifty (50) feet from the noise source and at a height of at least four (4) feet above the surrounding surface. (Ord. #3251, Oct. 1994)

11-505. Nuisance noises expressly prohibited. To the extent that they exceed the sound levels set forth in §§ 11-503 or 11-504, the following specific acts are declared to be in violation of this chapter:

(1) Animals. The keeping of any animal, bird or fowl which makes frequent or long, continued noise;

(2) Noise sensitive zone. The creation of any excessive noise heard within any school, public building, church or any hospital, or the grounds thereof, while in use, which interferes with the workings of such institution;

(3) Loudspeakers, etc. The use of any loudspeaker, drum, or other device for the purpose of attracting attention to any performance or sale or display of merchandise.

(4) Places of entertainment, etc. With respect to any place of entertainment or any place where amplified sound is produced, or at any place which is the source of a complaint of vibrations emanating from any location, in addition to the dBA criteria above, a secondary low frequency dBC criteria shall apply. No sound or music associated with a location that is the subject of a complaint shall exceed the low frequency ambient sound level as defined in § 11-501 by more than 8 dBC. (Ord. #3251, Oct. 1994, as replaced by Ord. #4508-13, Oct. 2013)

11-506. Exceptions. The following are exempt from the sound level limits specified in §§ 11-503 and 11-504 of this code:

(1) Any vehicle or employee of the city, while engaged upon public business;

(2) Construction operations between the hours of 7:00 A.M. and 9:00 P.M. for which building permits have been issued or construction operations for which no permit is required, provided that all construction equipment is operated according to manufacturer's specifications and mufflers are maintained in proper working order;

(3) Excavations or repairs of bridges, streets, highways, sidewalks, utilities, or other public works by or on behalf of the city, county, state, or utility company, during the night, when the public welfare and convenience renders it impossible to perform such work during the day;

(4) Domestic power tools, lawn mowers, and agricultural equipment, between the hours of 7:00 A.M. and 9:00 P.M. provided it is properly operated with all manufacturer's standard sound-reducing equipment in place and in proper operating condition;

(5) Safety signals and alarm devices and the authorized testing of such equipment;

(6) Sounds from nonamplified church bells and chimes;

(7) Sounds resulting from a parade, scheduled outdoor athletic event, fireworks display, or any event which has been sanctioned by the city;

(8) Sounds resulting from a street fair or block party between the hours of 7:00 A.M. and 11:00 P.M.;

(9) Sounds from trains and other associated railroad rolling stock when operated in proper repair and manner;

(10) Religious or political gatherings and other activities protected by the First Amendment to the United States Constitution. (Ord. #3251, Oct. 1994, as replaced by Ord. #4508-13, Oct. 2013)

11-507. Enforcement and penalties. (1) For purposes of this chapter, either the owner, occupant, or manager of the real property from which a noise violation originates shall be responsible for remedying the violation and liable for any costs or fines which result from the violation.

(2) Any person or organization found to be in violation of §§ 11-503, 11-504, or 11-505 of this code shall receive a citation charging him (it) with a misdemeanor which may result in a fine of not more than fifty dollars (\$50.00) for each separate violation. Upon issuance of a notice of violation, the responsible party shall correct said violation immediately or be cited for an additional violation. (Ord. #3251, Oct. 1994, as replaced by Ord. #4508-13, Oct. 2013)

CHAPTER 6

FALSE ALARMS

SECTION

- 11-601. Purpose.
- 11-602. Definitions.
- 11-603. Enforcement.
- 11-604. Violations and penalty.
- 11-605.--11-612. Repealed.

11-601. Purpose. The purpose of this chapter is to encourage alarm end users to use and maintain alarm systems in order to improve the reliability of alarm systems and reduce or eliminate false alarms.

These regulations also establish penalties for violations for repeated summoning of emergency personnel when and where an emergency did not exist. (1985 Code, § 16-151, as replaced by Ord. #4559-14, Sept. 2014)

11-602. Definitions. (1) "Alarm company" means a person(s) in the business of selling, providing, maintaining, servicing, replacing, or monitoring alarm systems.

(2) "Alarm dispatch" means a notification to the Washington County Emergency Communications District (911) for alarms within the city limits of Johnson City, Tennessee (including those areas within Washington, Carter, and Sullivan Counties), the police department, fire department, or emergency medical services that an alarm is activated, and the appropriate emergency responders are notified or dispatched. This definition includes hold-up alarms as well as alarms commonly referred to as duress or panic alarms.

(3) "Alarm site" means the point of origin of the alarm at a street address that appears in the alarm dispatch notification to the Washington County Emergency Communications District (911) for alarms within the city limits of Johnson City, Tennessee (including those areas within Washington, Carter, and Sullivan Counties). For multi-family residential complexes that contain two (2) or more individual units or apartments, an alarm site shall be defined as the street address of the multi-family residential complex in its entirety and not an individual unit or apartment within the complex, unless a tenant of the complex installs or causes to be installed an alarm system or has a contract for monitoring or maintenance of an alarm system, in which case that tenant's apartment/unit shall be the alarm site and that tenant shall be the alarm user.

(4) "Alarm system" means a device or series of devices, including, but not limited to, hardwired systems and systems interconnected with a radio frequency method such as cellular or private radio signals, which emit or transmit a remote or local audible, visual, or electronic signal indicating an

alarm condition and intended to summon law enforcement or other emergency responders, including local alarm systems that may be audible only. Alarm system does not include an alarm installed in a vehicle or on someone's person unless the vehicle or the personal alarm is permanently located at a site.

(5) "Alarm user" means any person, company, institution, or other commercial, public, or private entity that has contracted for monitoring, repair, installation, or maintenance service from an alarm company or monitoring company for an alarm system, or any of the above-listed persons or entities that own or operate an alarm system which is not monitored, maintained, or repaired under contract.

(6) "Cancellation" means the process by which a response is terminated when a monitoring company for the alarm site, designated by the alarm user, or other qualified person, notifies the Emergency Communications District or the responding emergency service that there is not an existing situation at the alarm site requiring an emergency response after an alarm dispatch request.

(7) "False alarm" means an alarm dispatch to an emergency service provider, when the responding emergency service provider finds no evidence of an emergency or criminal offense or attempted criminal offense or fire or medical emergency, after having completed an investigation of the alarm site. This definition includes, but is not limited to, mechanical failure, malfunction, improper installation and maintenance, or the negligence of the owner or lessee of an alarm system or his/her/its employees or agents, but does not include alarm activation caused by violent conditions of nature or other extraordinary circumstances not reasonably subject to the control of the alarm user or alarm company.

Each alarm site will be granted three (3) false alarm violations within a rolling, twelve (12) month period before enforcement action is commenced, except in the case of a malicious or intentional sounding or activation of an alarm. The three (3) false alarm violations are counted separately for each emergency responder - police, fire, and emergency medical services. Malicious or otherwise intentional alarm sounding or activation that requires a response is considered enforceable immediately without consideration of previous alarm dispatches. Additionally, a malicious false alarm may be prosecuted under state law. A false alarm also includes a hold-up alarm or robbery alarm, which generally result from alarm signals generated by the manual activation of a device intended to signal a robbery in progress, or immediately after it has occurred, when such an emergency did not exist. (1985 Code, § 16-152, as replaced by Ord. #4559-14, Sept. 2014)

11-603. Enforcement. (1) Officers of the Johnson City Police Department are authorized to enforce this chapter as it applies to alarms necessitating a police department response.

(2) Fire Marshals of the Johnson City Fire Department are authorized to enforce this chapter as it applies to alarms necessitating a fire department response.

(3) Officers of the Johnson City Police Department are authorized to enforce this chapter as it applies to alarms necessitating an emergency medical response, at the request of the director of the Washington County/Johnson City Emergency Medical Services.

(4) Persons responsible for compliance with the terms of this chapter include alarm site property owners, alarm users, lessees, managers, employees, or anyone who exercises control over the alarm system of a business or residence, as the case may be. (1985 Code, § 16-153, as replaced by Ord. #4559-14, Sept. 2014)

11-604. Violations and penalty. (1) Any instance where emergency responders are dispatched to investigate an alarm, wherein the alarm is determined to be false, is considered a violation of this chapter. A fine of up to fifty dollars (\$50.00) for each such false alarm may be assessed by the Johnson City Municipal Court.

(2) An alarm dispatch that is cancelled prior to the emergency services arrival will not be considered a countable false alarm.

(3) It is a violation of this chapter for an alarm company to activate a false alarm while installing, repairing or doing maintenance work on an alarm system. If the fire or police department is notified to cancel the call prior to arrival, it will not be considered a false alarm.

(4) In addition to the penalty in subsection (1), the municipal court may assess and render a judgment for the actual costs of the response, including but not limited to the costs of the equipment, fuel, personnel, and supplies. (1985 Code, § 16-154, as replaced by Ord. #4559-14, Sept. 2014)

11-605. – 11-612. [Repealed]. (as repealed by Ord. #4559-14, Sept. 2014)

CHAPTER 7

HAZARDOUS MATERIALS

SECTION

- 11-701. Release of hazardous materials unlawful.
- 11-702. Definitions.
- 11-703. Liability for costs associated with cleanup, etc.
- 11-704. Effect of chapter on other obligations, etc.
- 11-705. Penalty.

11-701. Release of hazardous materials unlawful. It shall be unlawful for any person, firm or corporation to release or cause to be released, burn or cause to be burned, emit, spill, or leak any hazardous material, as defined herein. (Ord. #3676, April 1999)

11-702. Definitions. (1) The term "hazardous material" shall be defined as any substance or material leakage, release, seepage, or emission of which, due to its form, concentration, quantity, location, or other characteristics, as determined by the emergency management agency director or his/her duly authorized representative, was likely to pose an unreasonable and inordinate risk to the life, health, or safety of persons or property or to the ecological balance of the environment. The term "hazardous material" shall include, but not be limited to, explosives, reactive, flammable and combustible liquids, compressed gasses, flammable and water reactive solids, oxidizers and peroxides, poisons, radioactive materials, biohazardous waste, or otherwise regulated materials, or any other substance determined to be dangerous, hazardous, or toxic under any federal or state law, statute or regulation.

(2) The term "hazardous material incident" shall be defined as the leakage, release, seepage, or emission of any substance or material defined as "hazardous material hereinabove. (Ord. #3676, April 1999)

11-703. Liability for costs associated with cleanup, etc. (1) Any persons, firms, corporations, or other entities owning, shipping, or in the immediate control or possession of hazardous materials involved in any hazardous materials incident shall bear full responsibility for and be jointly and severally liable for any and all costs associated with the response to, abatement, handling, and cleanup of said hazardous materials as well as the remediation of any consequence associated with said incident. All such cost shall be reimbursed to the City of Johnson City, and shall include, but not be limited to, the costs and expenses incurred by the fire bureau, the hazardous material response team, the labor cost of all personnel involved in the abatement or cleanup of the aforementioned incident including workers compensation benefits, fringe benefits and administrative overhead or any other expenses,

medical expenses, whether immediate or long-term, of personnel exposed to hazardous material, costs of equipment operation, maintenance, repair or replacement, equipment rental, all costs of material ordered by the City of Johnson City involving hazardous materials abatement, the cost of any labor and materials expended by retaining or requesting other parties or entities to assist in the cleanup and abatement, as well as repair, mediation or remediation of any nature whatsoever including cost incurred by other municipalities or agents who respond to the hazardous materials incident through mutual aid or automatic aid agreements. In addition, all such parties shall be responsible for and shall promptly pay any and all such costs incurred by third parties by reason of such hazardous material incidents, whether the same are billed to and paid by the city or not.

(2) Reimbursement shall be due and payable thirty (30) days from the date of an invoice prepared by the Finance Department of the City of Johnson City or the Johnson City Hazardous Materials Response Team. Accounts which exceed the thirty (30) day limit shall bear interest charges at a rate to be established by the Board of Commissioners of the City of Johnson City by resolution. (Ord. #3676, April 1999)

11-704. Effect of chapter on other obligations, etc. Nothing in this chapter should be deemed to relieve any party from any other obligation or responsibility that it might otherwise have under law or equity. (Ord. #3676, April 1999)

11-705. Penalty. In addition to the reimbursement of costs as set forth hereinabove, any person, firm, corporation, or other entity who causes a hazardous materials incident as defined hereinabove shall be subject to a monetary penalty of five hundred dollars (\$500) for each such offense. (Ord. #3676, April 1999)