

**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 willfully 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 semi airtight 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 Change 7, August 21, 2014, 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 on 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 Change 7, August 21, 2014

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, nunchaku, shear kens, 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. Use of tobacco products on public property, etc., prohibited.**

(1) No person shall use tobacco products or vapor products, or both, on the grounds of any public property, public park, public playground, public greenway, or any public property that is accessible to use by youth as long as the public property, public park, public playground, public greenway or public property is owned or controlled by the City of Johnson City pursuant to Tennessee Code Annotated. § 39-17-1551(e).

(2) Each such offense shall be punishable by a fine not to exceed fifty dollars (\$50.00).

(3) As used in the subsection, "Greenway" shall mean:

(a) An open-space area following a natural or man-made linear feature designed to be used for recreation, transportation, and conservation, and to line services and facilities; or

(b) A paved, gravel-covered, woodchip-covered, or wood-covered path that connects one greenway entrance with another greenway entrance.

If a greenway traverses a park that is owned or operated by a county, municipality or instrumentality thereof, the greenway is considered a portion of that park unless designated otherwise by the City of Johnson City.

(4) “Playground” means any indoor or outdoor facility that is intended for recreation of children.

(5) “Tobacco product” means any product that contains tobacco and is intended for humans use.

(6) “Youth” means any person under twenty-one (21) years of age.

## 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. Posting 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.
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- 11-304. Bawdyhouse--abatement.
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- 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 adamatism, 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. Sound measurement procedures.
- 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 level in decibels measured on a sound level meter using the A-weighting network.

The unit of measurement is dB(A).

(2) "Acoustic calibrator." An instrument providing reference noise source used to calibrate and check the performance of sound levels meter.

(3) "Ambient sound level." The all0encompassing sound level, including the noise source of interest, associated with a given environment, being usually a composite of sounds from any sources, near and far.

(4) "Audible annunciator." A sound-producing devise, such as a bell, siren, whistle, or buzzer, incorporated as part of an emergency signaling device, including, but not limited to, a fire, burglar, tornado, or civil defense alarm system.

(5) "Background sound level." The sound level in a given environment excluding the noise source of interest.

(6) "City." The City of Johnson City, Tennessee, or the area within the territorial City limits of the City of Johnson City, Tennessee, and such territory outside of the City over which the City has jurisdiction or control by virtue of ownership.

(7) "Commercial area." Any area of the City not located within an Industrial or Residential area, as such areas are defined in this section.

(8) "Construction." Any and all activity necessary or incidental to the erection, demolition, assembling, altering, installing, repair, or equipping of public or private buildings, roadways, or utilities, including land clearing, grading, excavating, drilling, and filling.

(9) “Continuous sound.” Any non-impulsive, non-intermittent sound, including steady, quasi-steady, and fluctuating sounds that exists, essentially without interruption, for a period of five minutes or more.

(10) “C-weighted sound level (dBC).” The sound level in decibels as measured on the sound level meter using the C-weighted network,.

(11) “Decibel (dB).” Logarithmic unit of measure used in describing a sound’s volume or amplitude, equal to 20 times the logarithm to the base ratio of the pressure produced by a sound wave to a reference pressure, which is 20 micropascals (20 micronewtons per square meter)..

(12) “Dynamic braking device.” A device used primarily on trucks and buses to convert the motor from an internal combustion engine or an air compressor for the purpose of vehicle braking without the use of a wheel brake.

(13) “Emergency.” Any occurrence or set of circumstances involving actual or imminent physical trauma to a person or persons or damage to property that demands immediate action.

(14) “Emergency work.” Work made necessary to restore property to a safe condition following a disaster or other public calamity, work to restore public utilities, or any other work required to protect persons or property from imminent exposure to danger.

(15) “Equivalent A-Weighted or C-weighted Sound Level (LeqA or LeqC).” The constant or “average” sound level over a specified measurement period conveys the same sound energy as the actual time-varying A- or C-weighted sound levels over the same period. LeqA or LeqC describe a receiver’s cumulative sound exposure from all sources over the specified measurement.

(16) “Fluctuating or time-varying sound.” A non-steady, non-impulsive sound whose sound pressure level varies significantly but does not equal the ambient level more than once during the period of observation. For purposes of this Chapter, a sound is slowly fluctuating sound if it’s a-weighted sound level measured using the “slow” response on a sound level meter fluctuates more than  $\pm 3$  dBA; a sound is a rapidly fluctuating sound if it’s a-weighted sound level measured using the “fast” response on a sound level meter fluctuates more than  $\pm 3$  dBA.

(17) “Frequency.” The number of occurrences of a repeating event per unit of time, measured in hertz (Hz), i.e., the number of cycles per second.

(18) “Gross vehicle weight rating (GVWR).” The value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. For purposes of this Chapter, in cases where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded of the combination vehicle shall be used.

(19) “Home improvement service.” The repair, replacement, remodeling, alteration, conversion, modernization, improvement, or addition

to any residential property, including, but not limited to, the repair, replacement, remodeling, alteration, conversion, modernization, improvement, or addition to driveways, swimming pools, porches, garages, landscaping, fences, and roofing.

(20) "Impulsive sound." A sound of short duration usually lasting for less than one second, consisting of a single pressure peak or a single burst (multiple pressure peaks), and characterized by an abrupt onset and rapid decay. Impulsive sounds are generally associated with sources such as explosions, the discharge of firearms, impacts, and certain industrial processes.

(21) "Industrial area." Any area of the City located within any Industrial District or Planned Industrial District, as permitted in the Zoning Code of the City of Johnson City.

(22) "Intermittent sound." A sound where the sound level meter indicates a sound pressure level equal to the ambient level two or more times during the measurement period; intermittent sounds may be either steady or fluctuating.

(23) "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.

(24) "Maximum sound level (Lmax)." The maximum sound level during a measurement period as determined by using a sound level meter set to the "fast" response setting. For purposes of this Article, Lmax may be measured as either an A-weighted or C-weighted sound level.

(25) "Measurement period." The time interval during which acoustical data are obtained. For purposes of this Article, the measurement period is determined by the characteristics of the noise being measured and must be at least ten times as long as the response time of the instrumentation. The greater the variation in indicated sound level, the longer the observation time must be for a given expected precision of measurement.

(26) "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.

(27) "Motorcycle." Any motor vehicle that has a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, including a vehicle that is fully enclosed, has three wheels in contact with the ground, weighs less than 1,500 lbs., and has the capacity to maintain posted highway speed limits, excluding a tractor or motorized bicycle, as defined in T.C.A. § 55-8-101.

(28) "Muffler" A device for abating sound of escaping gases of an internal combustion engine.

(29) "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.

(30) "Noise Officer". Any City of Johnson City Police Officer, Building Inspector, or Codes Enforcement Officer

(31) "Non-steady sound." A sound whose sound pressure level fluctuates by more than 3 dB from its mean during the measurement period, as measured using the "slow" response of the sound level meter.

(32) "Peak sound level (Lpk)." The maximum sound level as measured using the C-weighting scale and peak/impulse settings on the sound level meter.

(33) "Public entertainment venue." Any location, exterior or interior to a building, including but not limited to a theatre, bar, cafe, restaurant, dance club, or concert venue, that regularly permits public entrance for entertainment purposes.

(34) "Plainly audible sound." Any sound for which the information content of that sound is unambiguously communicated to the listener, such as, but not limited to, understandable spoken speech, comprehension of whether a voice is raised or normal, repetitive bass sounds, or comprehensible musical rhythms.

(35) "Power tools and equipment." Any device mechanically powered by electricity, gasoline, diesel fuel, or any other fuel that is intended to be used or is actually used for the performance of cutting, nailing, stapling, sawing, vacuuming, blowing, drilling, sanding, grinding, and similar functions.

(36) "Pure tone." Any sound that can be heard as single pitch (i.e., frequency) or combination of pitches.

(37) "Quasi-steady sound." A rapid series of impulsive sounds that has the same effect on a sound level meter as a steady sound.

(38) "Refuse compacting or collection vehicle." Any vehicle which is designated to be used or is actually used to compact, collect, and/or transfer refuse, garbage, recyclables, or trash.

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

(40) "RMS sound pressure (Prms) (effective sound pressure)." The value obtained when squaring multiple instantaneous sound pressure level measurements at a given point, averaging these over the time of a complete cycle, and taking the square root of this average, expressed in pascals.

(41) "Soft test point." Any test site having the ground surface covered with grass, other ground cover, or similar absorptive material for ½ or more of the distance between the microphone target point and the microphone location point.

(42) "Sound." An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that may include any characteristic of such sound, including duration, intensity, and frequency.

(43) "Sound amplification device." Any device whose primary function is the amplification of sound, live or recorded, including, but not limited to, any musical instrument, loudspeaker, radio, television, digital or analog music player, public address system, or other device or equipment used for the reproduction or amplification of the human voice or other sound.

(44) "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 ANSI S1.4-2014.

(45) "Sound level meter." A sound level measuring device, either Type I or Type II, as defined in the latest version of ANSI S1.4-2014 "Sound Level Meters." For purposes of this Chapter, a sound level meter must contain at least an A-scale, both fast and slow meter response, and be capable of calculating equivalent A-weighted sound levels. (Ord. #3251, Oct. 1994, as amended by Ord. #4508-13, Oct. 2013)

#### **11-502. Administration and enforcement.**

(1) The City's Chief of Police and the Chief Building Official, or their designees, shall be responsible for administering and enforcing the provisions of this Chapter. The City Manager may authorize other City departments to assist the Chief of Police and Chief Building Codes Official in enforcing this Chapter.

(2) Any City of Johnson City Police Officer shall have the authority to investigate suspected violations of this Chapter and to pursue enforcement activities in accordance with Code § 11-512, provided, however, that only those officers qualified as a Noise Officer shall have the authority to enforce sections of this Chapter requiring the use of a sound level meter.

(3) Any City Building Inspector or Code Enforcement Officer shall have the authority to investigate suspected violations of Code §§ 11-505 and

11-506 and to pursue enforcement activities in accordance with Code § 11-512, provided, however, that only those inspectors qualified as a Noise Officer shall have the authority to enforce sections of this Chapter requiring the use of a sound level meter.

(4) The Chief Building Official or designee shall be responsible for administering all other aspects of the noise control program established by this Chapter and shall have the power to:

(a) Review public and private projects, subject to mandatory review and approval by other City departments, boards, and/or commissions, for compliance with this Chapter.

(b) Require the owner or operator of any commercial or industrial activity to establish reports and maintain records and make such reports as the Building Codes Division may reasonably prescribe; and

(c) Require the owner or operator of any commercial or industrial activity to measure, with or without the presence of Building Codes Division officials, the sound level of or the vibration from any source in accordance with applicable ANSI methods and procedures and at such locations and times as the Building Codes Division may reasonably prescribe and to furnish reports of the results of such measurements.

**11-503. Sound measurement procedures.**

(1) Sound Measurement Equipment.

(a) All sound level measurements made by the Noise Officer pursuant to this Chapter shall be made using a sound level meter in good operating condition and that meets the requirements of a Type 1 or Type 2 instrument, as described in ANSI S1.4 2014 “Sound Level Meters” as it exists as of the effective date of this Chapter or as such requirements are hereafter amended.

(b) Acoustic calibrators used to calibrate a sound level meter should be those recommended by the manufacturer of the sound level meter.

(c) Each sound level meter used in connection with the enforcement and administration of this Chapter must be recalibrated and the acoustic calibrator must be recalibrated at least once per year by the manufacturer or by a laboratory accredited for such calibrations by either the American Association for Laboratory Accreditation or the National Institute of Standards and Technology. A copy of written documentation of such recalibration shall be kept with the equipment to which it refers.



(2) Insofar as practicable, sound will be measured while the source under investigation is operating at normal, routine conditions and, as necessary, at other conditions including, but not limited to, design, maximum and fluctuating rates.

(3) All tests shall be conducted in accordance with the following procedures;

(a) The Noise Officer shall, to the extent practicable, identify and document all sources contributing sound to the point of measurement. Prior to taking any noise measurements, the Noise Officer shall explore, as is reasonable under the circumstances, the vicinity of the source in question to identify any other sound sources that could affect measurements, to establish the approximate location and character of the principal sound source, and to select suitable locations from which to measure the sound from the source in question.

(b) Except as otherwise provided in this Chapter, measurements shall be taken at or near the nearest real property boundary of the property receiving the alleged offending sound.

(c) The Noise Officer shall conduct an external calibration of the sound level meter using an acoustic calibrator immediately before and after a series of measurements at each test site.

(4) When using a sound level meter to enforce the provisions of Title 11 of the Johnson City Code, the Noise Officer shall utilize the settings specified below for the specific type of sound being evaluated.

(a) Non-impulsive sounds. Except as set forth otherwise in this Chapter, the sound level of a sound that is sustained for more than one second at a time and shall be measured using the A-weighting scale and the fast response settings on the sound level meter, unless otherwise specified in the most recent version of ANSI S1.4-2014.

(b) Measurement of impulsive sounds. The sound level of an impulsive sound shall be measured using the C-weighting scale and peak/impulse settings on the sound level meter, unless otherwise specified in the most recent version of ANSI S1.4-2014.

(c) Measurement of sounds with significant low-frequency components. The sound level of a sound with significant low-frequency components, e.g., certain sound amplification devices and heavy equipment or machinery, in addition to being measured in accordance with subsection (a), may also be measured using the C-weighting scale and the fast response setting on the sound level meter for purposes of establishing compliance with the applicable sound level limits.

(5) Adjustment for background interference.

(a) Wherever possible, the background sound level should be measured at the same location on the receiving property used to

measure the alleged offending noise source. Background sound levels shall be taken using the same weighting scale as being evaluated and the fast response setting on the sound level meter.

(b) If the source of interest can be turned off, the Noise Officer shall subtracted the background sound level from the measured sound levels of the source(s) of interest (i.e., ambient sound level) by using Table 1 to determine the sound levels from the source(s) of interest alone.

<b>Table 1</b>	
<b>Difference between ambient and background levels</b>	<b>Correction factor to be subtracted from ambient level to determine source level</b>
3	3
4-5	2
6-9	1
10 or more	0

(c) If the intruding noise source cannot reasonably be discontinued or stopped for a period of time sufficient to allow the measurement of the background sound level, the background sound level may be determined by the decibel reading traveling away from the noise source to a point where a steady-state decibel reading is achieved.

(6) Reporting requirements

(a) The Noise Officer shall complete a report for each measurement session on forms approved by the Chief of Police and Chief Building Codes Official.

(b) Information required to support the issuance of a citation shall be considered sufficient if the data captured by the sound level meter provides such information, and/or such information can be provided by the citation and/or the testimony of the Noise Officer taking such readings, and/or such other reports generated by the Noise Officer.

**11-504. Maximum permitted sound levels.**

(1) Except as exempted in § 11-510, 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 Table 2.

<b>Table 2</b>			
<b>Receiving Land Use Category</b>	<b>Time</b>	<b>Sound Level Limit (dBA)</b>	
		<b>Pure Tones, Cyclically Varying Sounds, and Quasi-Steady Sounds</b>	<b>All Other Sounds</b>
Residential or Noise-Sensitive Zone	7:00 a.m. to 11:00 p.m.	50	55
	11:00 p.m. to 7:00 a.m.	43	48
Commercial Zone	7:00 a.m. to 11:00 p.m.	60	65
	11:00 p.m. to 7:00 a.m.	53	58
Industrial Zone	7:00 a.m. to 11:00 p.m.	65	70
	11:00 p.m. to 7:00 a.m.	65	70

(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. No noise shall exceed the limits set forth in Table 3.

<b>Table 3</b>	
<b>Time</b>	<b>Sound Level Limit (dBA)</b>
8:00 a.m. to 8:00 p.m.	45
8:00 p.m. to 8:00 a.m.	40

**11-505. Maximum permitted sound levels for construction activities.**

(1) Except as exempted in § 11-510, it shall be unlawful for any person to engage in any construction work on private property such that the sound therefrom exceeds an equivalent A-weighted sound level (LeqA) of:

(a) 80 dBA, as measured at or within a residential real property boundary or within a noise-sensitive zone from 7:00 a.m. to 8:00 p.m. on Sunday through Saturday throughout the year;

(b) 85 dBA, as measured from the commercial or industrial real property boundary of another person or at a distance of 50 feet of the source, whichever is greater, between 7:00 a.m. and 10:00 p.m.; or

(c) The applicable maximum permissible sound levels established in § 11-504 at all other times.

(2) Notwithstanding the limitation on construction activities specified in subsection (1), sounds created on private property by impact-type equipment, including but not limited to pavement breakers, pile drivers,

jackhammers, sandblasting tools, or by other types of equipment that create impulsive or impact sound or are used as impact equipment, as measured at the property line on which the construction activity is occurring or at a distance of 50 feet of the source, whichever is greater, may exceed the exterior sound level limits established in § 11-504 between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, and 8:00 a.m. and 6:00 p.m., on Saturday, Sunday, and legal holidays, but in no event may the equivalent C-weighted sound level (LeqC), measured over one minute, exceed 100 dB(C). Equivalent C-weighted sound levels in excess of 100 dBC are prohibited unless authorized by a temporary permit issued by the Chief Building Official. At all times other than the hours specified in this subsection, any sound generated by impact-type equipment shall comply with the sound level limits and time restrictions established in subsection (1).

(3) In addition to the restrictions specified in subsections (1) and (2), no person shall operate or cause to be operated any equipment used for construction work that is not equipped with a sound reduction device at least as effective as that provided by or recommended by the equipment's manufacturer.

(4) The restrictions specified in subsections (1) and (2), above, do not apply to: emergency work; power tools and equipment used in activities other than construction; and construction work performed pursuant to a temporary permit issued by the Chief Building Official, or that official's designee.

**11-506. Maximum permitted sound levels for power tools and equipment.**

(1) Except as exempted in § 11-510, it shall be unlawful for any person to:

(a) Between 7:00 a.m. and 8:00 p.m., operate or cause the operation of any power tool or equipment having an engine rated at five HP or less where the an equivalent A-weighted sound level (LeqA) attributable to that device exceeds 75 dBA, as measured from the real property boundary of another person or at a distance of 50 feet of the source, whichever is greater.

(b) Between 7:00 a.m. and 8:00 p.m., operate or cause the operation of any power tool or equipment having an engine rated at more than five HP where the an equivalent A-weighted sound level (LeqA) attributable to that device exceeds 80 dBA, as measured from the real property boundary of another person or at a distance of 50 feet of the source, whichever is greater.

(c) Between 8:00 p.m. and 7:00 a.m., the use of any power tool or equipment shall be subject to the exterior sound level limits set forth in subsection (B), provided, however, no person engaged in any commercial tree maintenance, landscaping, lawn care, or home improvement service may utilize any power tool or equipment in a residential zone or noise-sensitive zone during such period.

(d) In addition to the restrictions specified in subsections (1), (2) and (3), no person may operate any power tool or equipment without all manufactured-supplied emission control and sound reduction device in proper working order.

(e) This section shall not apply to the use of power tools and equipment in support of construction activities or emergency work, or to the use of snow blowers and snow throwers when operated with a muffler for the purposes of snow removal.

**11-507. Maximum permitted sound levels for motor vehicles.**

(1) Except as exempt in § 11-510, 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 5 below.

(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).

(3) Notwithstanding any other provisions of this section or provisions of this Chapter related to noise disturbances, no person may play, or operate or permit the playing, use, or operation of any sound amplification device located within a motor vehicle being operated or parked on public or private property within the City, including any public or private street or road, in such manner as to violate subsections (B) or (D) or otherwise create a noise disturbance. The operation of any such device in such a manner as to be audible to the human ear at a distance of 50 feet from the vehicle in which it is located shall be prima facie evidence of a violation of this section. If this section is determined to be in conflict with any other section of this Chapter, this section shall take precedence.

(4) Notwithstanding any other provisions of this Chapter, no person may operate a motor vehicle, and no owner of any motor vehicle may permit to be operated upon any public road, street, or highway so as to cause any greater noise or sound than is reasonably necessary for the proper operation of such motor vehicle.

(5) It shall be unlawful for any person to drive a motor vehicle on a public highway unless it is equipped with a muffler or other sound-dissipative device in good working order and in constant operation to prevent excessive or unusual noise.

(6) It shall be unlawful for any person to operate a motor vehicle on a street or highway with an exhaust system utilizing a cutout, bypass or similar device.

(7) It shall be unlawful for any person to operate a motor vehicle in such a manner as to cause or allow to be emitted squealing, screeching, or other such noise from the tires in contact with the ground because of rapid acceleration or excessive speed around corners or other such reason, except that noise resulting from emergency action to avoid imminent danger shall be exempt from this provision.

(8) It shall be unlawful for any person to operate any motor vehicle in excess of 10,000 pounds GCWR, in any residential zone of the City or within 200 feet of any dwelling or noise-sensitive area, with a dynamic braking device engaged except to avoid imminent danger.

(9) It shall be unlawful for any person to operate any motor vehicle in excess of 10,000 pounds GCWR, in any residential zone of the City or within 200 feet of any dwelling or noise-sensitive area for longer than ten minutes in any hour while the vehicle is stationary for reasons other than traffic between the hours of 10:00 p.m. and 7:00 a.m.

(10) It shall be unlawful for any person to sound any horn or other auditory signaling device on or in any motor vehicle on any public right-of-way or public space, except as a warning of danger or as otherwise specifically required or permitted by federal or state law. No person shall sound any horn or auditory signaling device that produces a maximum sound level ( $L_{max}$ ) in excess of 90 dBA as measured at 100 feet from the vehicle.

(11) It shall be unlawful for any person to operate or permit the operation of the refuse-compacting mechanism of any motor vehicle where the maximum sound level ( $L_{max}$ ) of the mechanism's compacting cycle exceeds 85 dBA as measured at 10 feet from the loudest part of the vehicle at any time. In addition, no person shall operate a refuse compacting, processing, or collection vehicle for the purposes of compacting or collecting refuse or recycling in, or within 100 feet of, a residential area between the hours of 8:00 p.m. and 6:00 a.m.

(12) It shall be unlawful for any person to operate and no owner of property shall permit the operation of an off road recreational vehicle so as to exceed the noise emission standards set forth in Table 7. This section shall

apply to all recreational motorized vehicles, whether or not duly licensed and registered, including, but not limited to, commercial or non-commercial racing vehicles, motorcycles, all-terrain vehicles, go-carts, snowmobiles, amphibious craft, campers, and dune buggies.

<b>Table 5</b>		
<b>Vehicle Class</b>	<b>Maximum Sound Level Limit – Lmax(A) measured at 50 feet</b>	
	<b>Speed Limit</b>	
	<b>35 mph or less</b>	<b>Over 35 mph</b>
Any motor vehicle with a GVWAR or GCWR of 10,000 lbs. or more	89	94
Any motor vehicle with a GVWAR or GCWR of less than 10,000 lbs.	81	85
Street motorcycle other than moped	81	85
Moped	70	70
Off-road motorcycle with engine displacements greater than 170 cc	82	82
Off-road motorcycle with engine displacements Less than 170 cc	80	80
Any other vehicle	76	80

**11-508. 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).

(5) Explosives, firearms, and similar devices. It shall be unlawful for any person to use or fire any explosive any explosive, firearm, or similar device that creates an impulsive sound so as to cause a noise disturbance across a real property boundary in a noise-sensitive zone, in a public space, or on a public right-of-way at any time without first obtaining authorization from the City Manager, or his/her designee.

(6) This Chapter shall not apply to setting off fireworks otherwise permitted under any other provision of the City Code, game hunting on property where such activities are authorized by law, construction activities permitted under § 11-506, or shooting ranges.

**11-509. Voice sound amplification.**

(1) Except as exempt in § 11-510, it shall be unlawful for any person to cause, suffer, allow or permit the operation of sound amplification device on public property.

(2) It shall be unlawful for any person to cause, suffer, allow or permit the operation of sound amplification device in such a manner that the sound emanating therefrom intrudes upon the interior of a residence or dwelling unit and raises the background sound level by more than the permissible sound level limits set forth in Table 4.

<b>Table 4</b>		
<b>Week Nights (8:00 p.m. – 8:00 a.m.)</b>	<b>Weekend Nights and Nights Preceding Legal Holiday (10:00 p.m. – 9:00 a.m.)</b>	<b>All other times</b>
3 db(C)	3 dB(C)	6 dB(C)

**11-510. Exceptions. The following are exempt from the sound level limits specified in §§ 11-504, 11-506, 11-507, 11-508 and 11-509 of this code.**

(1) Any emission of sound for the purpose of alerting persons to the existence of an emergency, danger, or attempted crime, including any such sound emitted from a stationary signaling device or any police vehicle, fire and rescue vehicle, or ambulances;



- (2) Any emission of sound caused by the performance of emergency work, or by the ordinary and accepted use of emergency apparatus and equipment;
- (3) Sounds generated by emergency pressure relief valves;
- (4) Any vehicle or employee of the City, while engaged upon public business;
- (5) Amplification during routine assemblies, special events, sporting events, or other activities approved by authorized representative of said location by designated person(s) located on the campuses of all public and private, primary and secondary schools, located within the corporate jurisdiction of the City of Johnson City; located on the campus of East Tennessee State University; located at any municipal park and facility; located at any municipal baseball stadium and athletic facility; located at any municipal civic center; and located at Pine Oaks Golf Course;
- (6) Amplification during any special event, such amplification being utilized by the event organizer and not an attendee, that has been approved by the City Commission and a proper Special Event Permit has been issued;
- (7) Construction operations between the hours of 7:00 A.M. and 10:00 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;
- (8) 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; and
- (9) Sounds caused by sources regulated as to sound production by federal law, including, but not limited to, any aircraft operated in conformity with, or pursuant to federal law, Federal Aviation Administration regulations, and the instructions of an air traffic controller. Any aircraft operating under technical difficulties, in any kind of distress, under emergency order of air traffic control, or being operated pursuant to and subsequent to the declaration of an emergency under Federal Aviation Administration regulations shall also be exempt from the provisions of this Chapter.

**11-511. Investigations; right of entry.** Any Johnson City Police Officer, Building Inspector, or Code Enforcement Officer, in addition to any other authority vested in any such person, has the power, upon presentation of proper credentials, to enter and inspect any dwelling, multifamily dwelling, building, structure, or premises within the City as may be necessary to enforce the provisions of this Chapter. Permission to conduct any such inspection must be obtained in writing from the occupant or, in the case of

unoccupied property, from the owner or the owner's agent. If such permission is refused or cannot otherwise be obtained before such entry or inspection is made, a search warrant must be obtained upon the showing of probable cause to believe that a violation of this Chapter may exist, unless the sound emanating from the location presents an immediate threat to health and safety.

**11-512. Enforcement procedure; penalties and other remedies.**

(1) Citation. Violations of this Chapter may be prosecuted by citation in the same manner as other violations of the City Code.

(2) Continuing violations. Each violation of this Chapter shall be considered a separate offense, and any violation continuing one-half hour or reoccurring within one-half hour shall be considered a separate offense for each half hour of violation.

(3) Prima facie evidence. Any sound exceeding the applicable sound level limit specified in this Chapter shall be deemed to be prima facie evidence of a violation of this Chapter, as is use of any voice amplification device except as set forth in § 11-510.

(4) Affirmative defenses. It is a defense to an offense under this Chapter that:

(a) An order, if given, was promptly obeyed;

(b) The device creating the noise was operated within an enclosed motor vehicle and was not audible outside the vehicle in which it was operated;

(c) The device creating the noise is one required by any law, ordinance or regulation of the federal, state, or municipal government and was being operated in accordance with applicable law; or

(5) Penalty for violation. Any person violating any provision of this Chapter shall be punished as provided in Johnson City Code § 1-104. In addition to any penalty imposed pursuant to § 1-104.

(6) Stop work order.

(a) In lieu of or in addition to issuing a citation as provided for in subsection (3), the Chief Building Official may issue a stop work order requiring the immediate halt of any construction or repair or maintenance of real property and abatement of any source of sound alleged to violate this Chapter, where such violation threatens the health or safety of the public or materially impairs the City's ability to secure compliance with this Chapter.

(b) The stop work order must specify the violation and may prohibit all or any work or other activity at the site that is a cause of the violation of this Chapter or the violation of permit or variance granted by codes enforcement.

(c) The Chief Building Official may serve the stop work order by posting it in a conspicuous place at the site, if posting is physically possible. If posting is not physically possible, the stop work order shall be served on the owner(s) of the property and the person(s) performing the work on the property either by personal service or by first class mail to the person's last known address. Service is complete at the time of posting or of personal service, or if mailed, three days after the date of mailing. When the last day of the period so computed is a Saturday, Sunday, or Legal holiday, the period runs until 5:00 p.m. on the next business day.

(d) A stop work order shall remain in effect until the violation ceases or until the Chief Building Official grants a temporary permit for the work or issues a written determination that the violation has been mitigated technically and economically feasible in accordance with subsection (5).

(7) Injunctive relief. The City may institute a civil action seeking an injunction and order of abatement against any person creating or allowing the creation of any unlawful noise, including the owner or person otherwise having legal or actual control of the premises from which the unlawful noise emanates.

(8) Identification of violator.

(a) At private residences. Any adult resident present at the time of the offense, and any adult guest or adult trespasser with the ability to control the level of noise at the time of the offense when no adult is present at the time of the offense.

(b) At business locations. Any business owner, operator, manager, employee-in-charge and all persons in control or in possession instrument generating the noise disturbance or property at the time of the offense. In addition, any officer, agent, or other person acting for or employed by any corporation, or unincorporated association or organization shall be subject and liable to punishment as well as such corporation, or unincorporated association or organization for the violation of any section of this Chapter, where such violation was the result of the act, omission, or order of any such person.

(c) At any location with an unattended noise disturbance producing machine, device, instrument, animal, or combination of the same. Any person who leaves unattended any machine, instrument, device, animal, or any combination of the same, that thereafter continues or commences to produce a noise disturbance.

(d) If the person operating or controlling the source of a noise disturbance cannot be identified, any owner, tenant, resident, or

manager physically present on or in the property where the violation is occurring is rebuttably presumed to be guilty of the violation.

**11-513. No limitation of remedy.**

(1) No provision of this Chapter shall be construed to impair any common law or statutory cause of action, or legal remedy there from, of any person for injury or damage arising from any violation of this ordinance or from other law.

(2) Nothing in this Chapter shall be construed to prevent or limit any person from seeking any remedy available in law or equity for activities that are or may be subject to regulation by this chapter, or from pursuing any such remedy simultaneously with proceedings under this chapter, nor shall any of the procedures specified herein be a condition precedent to the institution of any legal action.

## 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].** (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)