

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

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CHAPTER 1

MISDEMEANORS OF THE STATE ADOPTED

SECTION

11-101. Misdemeanors of the state adopted.

11-101. Certain misdemeanors² under state law. All offenses against the State of Tennessee which are defined by state law to be misdemeanors punishable by a fine of fifty dollars (\$50.00) or less and confinement for a period of thirty (30) days or less are hereby designated and declared to be violations of the laws and ordinances of the City of Lebanon and any such violation is also a violation of this section. (1968 code, § 10-101; as replaced by Ord. #05-2725, April 5, 2005)

¹ Municipal code references

Animals and fowls: Title 10.
 Housing and utilities: Title 12.
 Fireworks and explosives: Title 7.
 Traffic offenses: Title 15.
 Streets and sidewalks: Title 16.

² State law references

For the definition of "misdemeanor", see Tennessee Code Annotated §§ 39-11-110 and 39-11-111.

CHAPTER 2

ALCOHOL¹

SECTION

- 11-201. Public drunkenness.
- 11-202. Drinking alcoholic beverages in public, etc.
- 11-203. Minors in beer places.
- 11-204. Restrictions on bottles of liquor and wine.
- 11-205. Penalty for allowing brown bagging.

11-201. Public drunkenness. See Tennessee Code Annotated, § 39-17-310; see also title 33, chapter 8.

11-202. Drinking alcoholic beverages in public, etc. It shall be unlawful for any person to drink, consume or have an open can or bottle of beer or intoxicating liquor in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place, unless place has an appropriate permit for on premises consumption. (1968 code, § 10-229, modified)

11-203. Minors in beer places. No person under the age of twenty-one (21) shall loiter in or around or otherwise frequent any place where beer is sold at retail for on premises consumption. (1968 code, § 10-222, modified)

11-204. Restrictions on bottles of liquor and wine. No person shall bring a bottle of liquor or wine for the purpose of consumption of said product, upon the premises of any establishment licensed to sell liquor by the drink within the city limits of Lebanon, Tennessee. The subject establishment is authorized by the Alcoholic Beverage Commission of the State of Tennessee to legally sell liquor by the drink, and there is no need or purpose to allow patrons to bring their own bottles of liquor or wine onto the licensed premises.

Any person bringing a bottle or container of liquor or wine onto the premises of a business which is legally authorized to sell liquor by the drink, shall be presumed to have brought said container or bottle onto the premises for the purpose of consumption, unless the person is a sales person or deliver person involved in the sale of liquor as allowed by the Alcoholic Beverage Commission of the State of Tennessee. Any person violating this section shall be subject to a fine of fifty dollars (\$50.00) plus court costs. (as added by Ord. #95-1299, § ___, May 1995)

¹ Municipal code references

Sale of alcoholic beverages, including beer: Title 8.

Open containers: § 11-1002.

State law references

See Tennessee Code Annotated § 33-8-203 (Arrest for Public Intoxication). Cities may not pass separate legislation).

11-205. Penalty for allowing brown bagging. Any person or establishment which is licensed to sell liquor by the drink within the city limits of Lebanon, Tennessee shall not allow persons to bring liquor or wine onto its premises for the purpose of consumption, and said person or organization shall take reasonable measures to inform their patrons and customers that "brown bagging" is not allowed upon their premises since the organization or person has the right to sell liquor by the drink under the direction of the Alcoholic Beverage Commission of the State of Tennessee. Any person or organization violating this section shall be fined the sum of fifty dollars (\$50.00) for each event of "brown bagging" which occurs on their premises. Furthermore, any organization or establishment which violates this requirement shall be subject to losing its license for the sale of "liquor by the drink" or shall be subject to having the City of Lebanon refuse to authorize the renewal of said license. Any person or organization licensed to sell liquor by the drink within the city limits of Lebanon, Tennessee who promptly reports to the police the bringing of bottles or containers of liquor or wine onto their premises shall be presumed to be in compliance with the law. Likewise, any person or organization which fails to promptly notify the Police of a "brown bagging" violation on its premises shall be presumed to be in violation of the law. (as added by Ord. #95-1299, § 2, May 2, 1995)

CHAPTER 3

GAMBLING

SECTION

11-301. Gambling prohibited.

11-301. Gambling prohibited. See Tennessee Code Annotated, § 39-17-501, et seq. (1968 code, §§ 11-216 and 11-217, modified)

CHAPTER 4

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-401. Commercial, industrial and business anti-noise regulations.

11-402. Miscellaneous prohibited noises enumerated.

11-403. Penalty for violation for anti-noise regulations.

11-401. Commercial, industrial and business anti-noise regulations. Subject to the provisions of this section, the creating of any unreasonably loud, disturbing, unnecessary commercial, industrial or business noise which causes material distress or discomfort or injury to persons of ordinary sensibility in the immediate vicinity thereof is hereby declared to be unlawful under the provisions stated herein and is hereby prohibited.

(1) **Determination of unreasonably loud noise.** For the purpose of determining and classifying any commercial or industrial noise as unreasonably loud, the following procedures and test measurements, and requirements shall be applied:

(a) Noise occurring within the jurisdiction of the city shall be measured at a distance of at least twenty-five (25') feet from the noise source located within the public right-of-way, and if the noise source is located on private property or property other than the public right-of-way, the noise measurement shall be taken at least twenty-five (25') feet from the property line of the property on which the noise source is located.

(b) The noise shall be measured on the "A" weighing scale on a sound level meter of standard design and quality and properly calibrated.

(c) For purposes of this chapter any measurements made with a sound level meter shall be made when the wind velocity at the time and place of such sound measurement shall not be more than five (5) miles per hour, or twenty-five (25) miles per hour if the measurement is taken with the assistance of a wind screen.

(d) In all sound level measurements consideration shall be given to the effect of the ambient noise level created by the other noises of the environment and shall consider all noise sources at the time and place of the sound level measurement.

(e) Notwithstanding any other provisions to the contrary, no person or organization shall cause, suffer, allow or permit sound from any source which, when measured at the point of the annoyance as stated herein, is in excess of the decibel readings listed on the chart below:

<u>REPETITIONS</u>	<u>COMMERCIAL, INDUSTRIAL or BUSINESS</u>	
	Per 24 hr Period	7:00 am-10:00 pm
CONTINUOUS	Must Comply with OSHA/TOSHA standards	Must Comply with OSHA/TOSHA standards
100	Must Comply with OSHA/TOSHA standards	Must Comply with OSHA/TOSHA standards
10	Must Comply with OSHA/TOSHA standards	Must Comply with OSHA/TOSHA standards
1	Must Comply with OSHA/TOSHA standards	Must Comply with OSHA/TOSHA standards

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

(a) Utility vehicles. Any utility vehicle while engaged upon necessary public business, so long as the business is being conducted in a reasonable manner.

(b) Repair of streets. Excavation or repairs of bridges, streets or highways at night, by or on behalf of the city, the county or the state, when the public welfare and convenience renders it impractical to perform such work during the daytime.

(c) Non-commercial and non-private use of loudspeakers and amplifiers. Reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by non-profit organizations are exceptions, however, no such use shall be made until a permit therefor is secured from the chief of police. The hours for the use of amplified or public address systems by the nonprofit organization will be designated in the permits and the use of said systems shall be restricted to the hours designated.

(d) Any person or organization operating under a temporary or permanent permit which has been issued under the provisions of this section. A person may apply for a noise exception permit by submitting an application to the Chief of Police for the City of Lebanon upon approved application forms. The application shall denote the time and place of the proposed noise generator, the source of the noise and the purpose for requesting the permit. Two types of permits may be issued

by the chief of police, after consultation with the city engineer: A temporary permit which expires five (5) days after issuance and which is for a specific time and place of operation, or a permanent permit which applies to a permanent location where good cause is shown for the source of sound to exceed the proposed limits stated herein and the chief of police in consultation with the city engineer has determined that no threat to public safety or annoying nuisance shall occur from the issuance of the subject permit. A temporary permit may be issued by the chief of police upon proper application without city council approval. A permanent permit may be issued upon application to the chief of police. (1968 Code, § 10-234, as replaced by Ord. #95-1382, Nov. 1995, and amended by Ord. #02-2318, March 2002)

(3) Reserved.

(4) (a) Subject to the provisions of this chapter 4, the creating of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare is prohibited.

(b) The acts, among others enumerated in this article, are declared to be loud, disturbing, and unnecessary noises in violation of this Code, but this enumeration shall not be deemed to be exclusive.

(c) All truck tractor and semi-trailers operating within the City shall conform to the visual exhaust system inspection requirements, 40 CFR 202.22, of the Interstate Motor Carriers Noise Emission Standards. The use of engine brakes of any brand is strictly prohibited without the proper muffling device attached to the exhaust system.

A motor vehicle does not conform to the visual exhaust system inspection requirements referenced above if inspection of the exhaust system of the motor carrier vehicle discloses that the system:

1. Has a defect that adversely affects sound reduction, such as exhaust gas leaks or alteration or deterioration of muffler elements. (Small traces of soot on flexible exhaust pipe sections shall not constitute a violation.);

2. Is not equipped with either a muffler or other noise dissipative device, such as a turbocharger (supercharger driven by exhaust by gases); or

3. Is equipped with a cut out, bypass, or similar device, unless such device is designed as an exhaust gas driven cargo unloading system.

(d) Construction or repairing of buildings. The erection (including excavation), construction, demolition, alteration or repair of any building during times that would not be permitted for Construction Activity by Section 12-104, Hours of Construction.

(e) deleted.

(f) Building Operation.

(1) Urgent/Emergency. The erection (including excavation), demolition, alteration, or repair of any building or grounds in any residential area or section or the construction or repair of streets and highways in any residential area or section is prohibited, other than between the hours of 7:00 a.m. to sunset, except in case of urgent necessity in the interest of public health and safety, and then only with a permit properly approved by the Executive Director of Engineering and Planning with notification to the chief of police. This approval should only be granted for a period while the emergency continues, not to exceed 30 days.

(2) Non-urgent/Non-emergency. If the requesting individual/applicant could show, and the City Departments could determine, that the activity will not create a nuisance nor affect the public health and safety, the erection, demolition, alteration, or repair of any building or the excavation of streets and highways between the hours of dusk to dawn could be temporarily allowed, a temporary non-emergent permit could be issued by the Executive Director of Engineering and Planning or their authorized agent. The permit should be reviewed on a 30-day basis and should not exceed 90 days.

(1968 Code, § 10-234; Ord. No. 95-1382, 11-21-1995; Ord. No. 02-2318, 3-5-2002; Ord. No. 19-5947, § 1, 11-19-2019; Ord. No. 25-7137 § 1 and 2, 1-21-2025)

11-402. Miscellaneous prohibited noises enumerated. (1) The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this section, but this enumeration shall not be deemed to be exclusive, namely:

(a) **Blowing horns.** The sounding of any horn or signal device on any automobile, motorcycle, bus, streetcar, or other vehicle while in motion, except as a danger signal if another vehicle is approaching, apparently out of control, or if in motion only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.

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

(c) **Yelling and shouting.** Yelling, shouting, whistling, or singing on the public streets, particularly between the hours of 11:00 P.M. and 7:00 A.M. or at any time or place so as to annoy or disturb the quiet, comfort, or repose of any persons in the hospital, dwelling, hotel, or other type of residence or of any persons in the vicinity.

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

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

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

(g) **Noises near schools and places of assembly.** The creation of any excessive noise on any street adjacent to any school, institution of learning, church, or court while in session, or adjacent to any hospital.

(h) **Loading and unloading operations.** The creation of a loud and excessive noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates, and containers during the hours of 11 P.M. to 7:00 A.M.

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

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

(k) Loud sound amplification systems in vehicles.

(i) No person operating or occupying a motor vehicle on a street, highway, alley, parking lot, or driveway, whether public or private property, shall operate or permit the operation of any sound amplification system from within the vehicle so that the sound is plainly audible at a distance of fifty (50) or more feet from the vehicle.

(ii) "Sound amplification system" means any radio, tape player, compact disc player, loud speaker, or other electronic device used for the amplification of sound.

(iii) "Plainly audible" means any sound produced by a sound amplification system from within the vehicle which clearly can be heard at a distance of fifty (50) or more feet. Measurement standards shall be by the auditory senses, based on direct line of sight. Words or phrases need not be discernible and bass reverberations are included. The motor vehicle may be stopped, standing, parked, or moving on a street, highway, alley, parking lot, or driveway on either public or private property.

(iv) It is an affirmative defense to a charge under this subsection that the operator was not otherwise prohibited by law from operating the sound amplification system, and that any of the following apply:

(A) The system was being operated to request medical or vehicular assistance or to warn of a hazardous road condition;

(B) The vehicle was an emergency or public safety vehicle;

(C) The vehicle was owned and operated by the City of Lebanon, or a utility, gas, electric, communications, or refuse company; or

(D) The system or vehicle was used in authorized public activities, such as parades, fireworks, sports events, musical productions, the Wilson County Fair, or any activities at the James E. Ward Agricultural Center, and other activities which have the approval of the city council or a department of the city authorized to grant such approval.

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

(a) Utility vehicles. Any utility vehicle while engaged upon necessary public business, so long as the business is being conducted in a reasonable manner.

(b) Repair of streets or public ways. Excavations or repairs of bridges, streets, or highways by or on behalf of the city, Wilson County, or the State of Tennessee, during the night season when the public welfare and convenience renders it impossible to perform such work

during the day.

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the court of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the chief of police in each instance. Hours for the use of such amplifier or public address systems will be designated in the permit so issued and the use of such system shall be restricted to the hours designed in the permit.

(d) Use of loudspeakers or amplifiers for auctions; permits. No person shall use loudspeakers or amplifiers to conduct auctions unless he or she first obtains an annual permit therefor. Permits for the use of loudspeakers or amplifiers shall be obtained from the chief of police. Each permit shall be valid for one year. Hours for the use of such amplifier or public address systems will be designated in the permit so issued and the use of such system shall be restricted to the hours designed in the permit. Operators of loudspeakers or amplifiers for the purpose of conducting auctions shall not violate city ordinance provisions concerning noise pollution. (as added by Ord. #02-2318, March 5, 2002; Ord. #21-6158, February 2, 2021)

11-403. Penalty for violation for anti-noise regulations. Any person or organization violating the anti-noise regulations described in this section shall be subject to a fine of not more than fifty dollars (\$50.00) for each noise or sound prohibition which has occurred. In addition, if the sound or noise prohibitions continue after being cited to court on at least three (3) occasions, the City of Lebanon may declare the subject noise or sound source as a public nuisance and is hereby authorized to proceed to obtain injunctive relief against the subject nuisance in the Chancery Court of Wilson County, Tennessee. Upon the successful prosecution of a public nuisance cause based upon the anti-noise regulations stated herein, the violator shall be subject to any injunctive relief granted by the chancery court and shall also be subject to the payment of all costs of prosecution by the City of Lebanon, including but not limited to reasonable attorney's fees. For purposes of establishing a public nuisance concerning the anti-noise regulations stated herein, the violations on three (3) separate occasions shall have occurred within a period of ninety (90) days. (as added by Ord. #95-1382, Nov. 21, 1995, and renumbered by Ord. #02-2318, March 5, 2002)

CHAPTER 5

INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

SECTION

11-501. Escape from custody or confinement.

11-502. Impersonating a government officer or employee.

11-503. False emergency alarms.

11-504. False Alarm Calls.

11-501. Escape from custody or confinement. It shall be unlawful for any person under arrest or otherwise in custody of or confined by the city to escape or attempt to escape, or for any other person to assist or encourage such person to escape or attempt to escape from such custody or confinement. (1968 code, § 10-209)

11-502. Impersonating a government officer or employee. No person other than an official police officer of the city shall wear the uniform, apparel, or badge, or carry any identification card or other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the official police officers of the city. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee. (1968 code, § 10-211)

11-503. False emergency alarms. It shall be unlawful for any person to intentionally make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance, or to aid or abet in the commission of such act. (1968 code, § 10-217)

11-504. False Alarm Calls. Effective February 1, 2017, any response to a false alarm call by the Police Department in excess of five per fiscal year at the same address shall result in a \$50.00 fee. (Ord. # 16-5338, Dec. 20, 2016.)

CHAPTER 6

FIREARMS, WEAPONS AND MISSILES

SECTION

11-601. Air rifles, etc.

11-602. Throwing missiles.

11-603. Discharge of firearms.

11-604. Handguns prohibited on city properties.

11-601. Air rifles, etc. It shall be unlawful for any person in the city to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a bullet or pellet, made of metal, plastic or any other kind of material, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. (1968 code, § 10-213)

11-602. Throwing missiles. It shall be unlawful for any person maliciously to throw any stone, snowball, bottle, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person. (1968 code, § 10-214)

11-603. Discharge of firearms. (1) General prohibition. It shall be unlawful for any unauthorized person to discharge a firearm within the corporate limits.

(2) Exception. The foregoing prohibition shall not apply to organized shooting ranges approved by either the Wilson County Sheriff's Department or the Lebanon Police Department nor shall said section apply to sportsmen hunting with shotguns in areas of the City of Lebanon that were agricultural when annexed and remain so, and not within five hundred feet of the residence or out-building of another. (1968 Code, § 10-212, modified, as amended by ord. 92-945, June 23, 1992)

11-604. Handguns prohibited on city properties. (1) Because of the overly broad, vague, and confusing language of Tennessee Public Chapter No. 428 (House Bill 716 and Senate Bill 976) of the 106th General Assembly, as adopted, the City of Lebanon desires to clarify resolution No. 09-1439 specifically stating that the carrying of handguns by persons authorized to carry handguns pursuant to Tennessee Code Annotated, § 39-17-1351 shall continue to be prohibited within the following City of Lebanon properties:

- (a) Don Fox Park, including the track around the park;
- (b) Veteran's Field and all of its associated sports facilities;
- (c) Baird Park and all of its associated sports facilities;
- (d) Hobbs Park and all of its associated sports facilities;
- (e) The soccer fields located at the Lebanon Municipal Airport;

- (f) Lebanon City Hall;
- (g) Lebanon Police Department;
- (h) Lebanon Public Works buildings, including the gas department/public safety building;
- (i) The Greer Building;
- (j) The Jimmy Floyd Family Life Center, including the pool, picnic, and recreational areas, but not the walking trail adjoining this property; and
- (k) Any other areas that the city may designate by proper ordinance in the future by the posting of the signage described in subsection (3), below.

(2) The carrying of handguns by persons authorized to carry handguns pursuant to Tennessee Code Annotated, § 39-17-1351 shall be permitted within the following City of Lebanon properties:

- (a) Any City of Lebanon owned or maintained walking trail, except for the portion of the trail circling and part of Don Fox Park;
- (b) City of Lebanon Farmer's Market;
- (c) Any City of Lebanon owned or maintained cemetery;
- (d) Any City of Lebanon owned or maintained property not specifically mentioned in subsection (1) of this section, unless restricted pursuant to the provision of subsection (1)(k).

(3) The City of Lebanon shall display signs in prominent locations about the properties listed in subsection (1), above, at least six inches (6") high and fourteen inches (14") wide, stating:

**MISDEMEANOR. STATE LAW PRESCRIBES A MAXIMUM PENALTY OF
ELEVEN (11) MONTHS AND TWENTY-NINE (29) DAYS AND A FINE
NOT TO EXCEED TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500)
FOR CARRYING WEAPONS ON OR IN THIS CITY OF LEBANON
BUILDING OR RECREATIONAL PROPERTY**

(as added by Ord. #09-3581, Sept. 15, 2009)

CHAPTER 7

TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC

SECTION

11-701. Trespassing.

11-702. Malicious mischief.

11-703. Interference with traffic.

11-701. Trespassing.¹(1) On premises open to the public.

(a) It shall be unlawful for any person to defy a lawful order, personally communicated to him by the owner or other authorized person, not to enter or remain upon the premises of another, including premises which are at the time open to the public.

(b) The owner of the premises, or his authorized agent, may lawfully order another not to enter or remain upon the premises if such person is committing, or commits, any act which interferes with, or tends to interfere with, the normal, orderly, peaceful or efficient conduct of the activities of such premises.

(2) On premises closed or partially closed to public. It shall be unlawful for any person to knowingly enter or remain upon the premises of another which is not open to the public, notwithstanding that another part of the premises is at the time open to the public.

(3) Vacant buildings. It shall be unlawful for any person to enter or remain upon the premises of a vacated building after notice against trespass is personally communicated to him by the owner or other authorized person or is posted in a conspicuous manner.

(4) Lots and buildings in general. It shall be unlawful for any person to enter or remain on or in any lot or parcel of land or any building or other structure after notice against trespass is personally communicated to him by the owner or other authorized person or is posted in a conspicuous manner.

(5) Peddlers, etc. It shall also be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to promptly leave the private premises of any person who requests or directs him to leave.¹² (1968 code, § 10-227, modified)

(6) Underneath Buildings and the City Square Where They Span Town Creek. It shall be unlawful for any persons not authorized by the owner, or not conducting any official City, county, state, or federal business, to trespass underneath any building that spans Town Creek along Highway 231 South. Additionally, it shall be unlawful for any person not conducting any official City, county, state, or federal business, to trespass underneath the

¹ State law reference

Subsections (1) through (4) of this section were taken substantially from Tennessee Code Annotated, section 39-14-405.

Municipal code reference

See § 11-1006.

² Municipal code reference: Provisions governing peddlers: title 9, chapter 1.

Public Square along Town Creek or into any other cave or opening underneath the square. These prohibitions are a public safety requirement established to protect life, limb, and property of the citizens and others. Any entry into these areas for any purpose, other than those established in this section, shall be deemed trespassing and subject to citation to the Municipal Court.
(1968 Code, § 10-227; Ord. No. 12-4168, 6-20-2012)

11-702. Malicious mischief. It shall be unlawful and deemed to be malicious mischief for any person to willfully, maliciously, or wantonly damage, deface, destroy, conceal, tamper with, remove, or withhold real or personal property which does not belong to him. (1968 code, § 10-225)

11-703. Interference with traffic. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere with the free passage of pedestrian or vehicular traffic thereon. (1968 code, § 10-233)

CHAPTER 8

OFFENSES AGAINST THE PUBLIC HEALTH, SAFETY, WELFARE

SECTION

11-801. Abandoned refrigerators, etc.

11-802. Caves, wells, cisterns, etc.

11-803. Posting notices, etc.

11-804. Educational awareness program.

11-805. Prohibition of any spray paint or glue bearing the Federal Harmful Vapors label.

11-806. Smoke-free environment.

11-807. Synthetic drugs prohibited.

11-808. Prohibition against intrusive and unsafe panhandling.

11-801. Abandoned refrigerators, etc. It shall be unlawful for any person to leave in any place accessible to children any abandoned, unattended, unused, or discarded refrigerator, icebox, or other container with any type latching or locking door without first removing therefrom the latch, lock, or door or otherwise sealing the door in such a manner that it cannot be opened by any child. (1968 code, § 10-221)

11-802. Caves, wells, cisterns, etc. It shall be unlawful for any person to permit to be maintained on property owned or occupied by him any cave, well, cistern, or other such opening in the ground which is dangerous to life and limb without an adequate cover or safeguard. (1968 code, § 10-232)

11-803. Posting notices, etc. No person shall paint, make, or fasten, in any way, any show-card, poster, or other advertising device or sign upon any public or private property unless legally authorized to do so. (1968 code, § 10-227)

11-804. Educational awareness program. The Mayor of the City of Lebanon, the Commissioner of Finance, and the Chief of Police, along with the advice and counsel of the members of the City Council, shall establish and formulate an Educational Awareness Program for those persons who have not attained the age of eighteen (18) years, as well as, all other persons within the City of Lebanon, which program shall accomplish, the following:

(1) Promote an awareness campaign entitled "STOP THE HUFFING" to educate those persons who have not attained the age of eighteen (18) years, as well as, all other persons within the City of Lebanon as to the potential health hazards as to the smelling and inhaling of the substances as herein set forth.

(2) Encourage the participants in the Lebanon "DARE" program to recognize the potential health hazards as to the illegal use of such substances.

(3) Establish a reasonable merit or reward program to encourage all persons to inform authorities concerning the illegal use of such substances. (Ord. #97-1634, July 17, 1997)

11-805. Prohibition of any spray paint or glue bearing the Federal Harmful Vapors label. (1) It is unlawful for any person to sell, offer to sell, deliver or give away to any person who has not attained the age of eighteen (18) years any tube or other container of spray paint or glue bearing the Federal Harmful Vapors label.

(2) It is unlawful for any individual who has not attained the age of eighteen (18) years to purchase, accept, possess, distribute for use or use any spray paint or glue bearing the Federal Harmful Vapors label. This part shall not be deemed to prohibit individuals who have not attained the age of eighteen (18) years from handling such substances when working in the course and scope of employment for merchants who deal in or use such substances. This part shall not be deemed to prohibit individuals who have not obtained the age of eighteen (18) years from handling such substances under the guidance and supervision of a parent or responsible adult.

(3) It is unlawful for any person, for the purpose of violating subsection (1) to persuade, entice, send or assist a person who has not attained the age of eighteen (18) years to purchase, acquire, receive or attempt to purchase, acquire or receive any substance as herein set forth. This section shall not be deemed to preclude law enforcement efforts involving the use of individuals under eighteen (18) years of age if a parent of the individual consented to this action.

(4) Proof of age of purchaser shall be required by seller, prior to the sale of any substance or product containing such substance as enumerated herein. "Proof of age" means a driver's license or other generally accepted means of identification that describes the individual as eighteen (18) years of age or older, contains a photograph or other likeness of the individual, and appears on its face to be valid. Any person who has not attained the age of eighteen (18) years who presents identification pursuant to this subsection other than his own or which does not contain the individual's correct age or date of birth is subject to juvenile court proceedings. A person does not violate subsection (1) or subsection (3) herein if the person to whom the restricted spray paint or glue was sold, offered, delivered, or given, presented an apparently valid proof of age.

(5) As used in this section, "glue and paint" means any spray paint or glue bearing the Federal Harmful Vapors label.

(6) Nothing contained in this section shall be considered applicable to the sale of a hobby or model kit containing as a part thereof a tube or other container of glue, nor shall this section be considered applicable to the sale of a tube or other container of glue immediately in conjunction with the sale of a hobby or model kit requiring the use of approximately such quantity of glue for the assembly of a model. Nothing contained in this section shall be applicable

to the transfer of a tube or other container of glue from a parent to his own child, or from a guardian to his own ward.

(7) A person who disseminates substances as herein set forth shall prominently display in the place where such items are disseminated, a legible printed sign or decal, at least two inches (2") by six inches (6") in size which shall read, as follows:

"A PERSON LESS THAN EIGHTEEN (18) YEARS OF AGE WHO PURCHASES, ATTEMPTS TO PURCHASE, OR OFFERS TO PURCHASE SPRAY PAINT OR GLUE BEARING THE FEDERAL HARMFUL VAPORS LABEL IS SUBJECT TO A FINE OF \$50.00, ATTENDANCE AT AN AWARENESS PROGRAM, AND/OR JUVENILE COURT PROCEEDINGS.

A PERSON WHO SELLS OR OFFERS TO SELL TO A PERSON LESS THAN EIGHTEEN (18) YEARS OF AGE, SPRAY PAINT OR GLUE BEARING THE FEDERAL HARMFUL VAPORS LABEL IS SUBJECT TO A FINE OF \$50.00 AND/OR PROHIBITION FROM SELLING SUCH SUBSTANCES FOR A PERIOD OF ONE (1) YEAR."

(8) An individual who has not attained the age of eighteen (18) years who violates this section is subject to a fine of \$50.00 and shall attend an awareness program designed for those that violate this section and/or shall be subject to juvenile court proceedings.

(9) An individual who has attained the age of eighteen (18) years who violates this section commits a misdemeanor punishable by a fine of \$50.00. Any individual who is convicted of violating this section on three (3) separate occasions within a period of twelve (12) months shall be prohibited from selling such substances as herein set forth for a period of one (1) year from the date of the last conviction. The owner of a store at which such substances are sold at retail and the proprietor of the establishment shall also be deemed guilty of a violation of this section if such owner or proprietor knowingly permits an employee to violate subsection (1) while working at the store of the owner or proprietor, and upon conviction shall be fined \$50.00 for each separate occasion. Any store owner or proprietor who is found guilty of violating this section on three (3) separate occasions shall be prohibited from selling such substances as herein set forth for a period of one (1) year from the date of last conviction.

(10) As used in this section, unless the context otherwise requires, "person" means any individual, firm, fiduciary, partnership, corporation, trust, or association. (Ord. #97-1634, July 17, 1997)

11-806. Smoke-free environment. (1) That the public buildings owned and/or leased by the City of Lebanon shall be and are hereby designated

as "smoke-free" areas, except for those specified area which are posted and designated as a smoking area by the mayor after consultation with the department head.

(2) That the mayor, commissioner of finance and commissioner of public works shall designate smoking areas in the subject public buildings as stated herein and shall provide the proper signage to designate said areas.

(3) That no smoking shall be allowed in the City of Lebanon public buildings, except as otherwise specifically designated, and any smoking which occurs in violation of this chapter shall be deemed to be a violation of the Lebanon Municipal code, and shall be subject to a citation. (Ord. #97-1626, June 6, 1997)

11-807. Synthetic Drugs Prohibited.

a. Definitions:

- (1) "Synthetic drug" as used in this section shall mean:
 - (a) any substance, however denominated, and no matter the common street, brand or trade name of such substance, containing one or more of the following chemicals:
 - (1) Salvia divinorum or salvinorum A; all parts of the plant presently classified botanically as salvia dinorum, whether growing or not, the seeds thereof; any extract from any part of such plant, and every compound, manufacture, salts derivative, mixture, or preparation of such plant, its' seeds, or extracts;
 - (2) (6aR, 10aR)-9-(hydroxymethyl)-6, 6dimethyl-3(2methyloctan-2yl)-6a, 7, 10, 10a-tetrahydrobenzo[c]chromen-1-ol (some trade or other names being: HU-210);
 - (3) 1-Pentyl-3-(1-naphthoyl) indole (some trade or other names being: JWH-018);
 - (4) 1-Butyl-3-(1naphthoyl) indole (some trade or other names being: JWH-073;
 - (5) 1-(3{trifluoromethylphenyl}) piperazine (some trade or other names being: TFMPP);
 - (6) 3, 4-methylenedioxyprovalerone (MDPV), (some trade or other names being: MDPK);
 - (7) 4-methylmethcathinone (Mephedrone);
 - (8) 3,4 – methylenedioxy methcathinone (Methylone);
 - (9) 3, – methoxymethcathinone;
 - (10) 4 – methoxymethcathinone;
 - (11) 3 – fluoromethcathinone;
 - (12) 4 – fluoromethcathinone;
 - (b) any other substance which mimics the effects of any controlled substance (to include, but not limited to, any opiates, opium derivatives, hallucinogenic substances, methamphetamine, MDMA, cocaine, PCP, marijuana, cannabis, cannabinoids, cannabicyclohexanol, and tetrahydrocannabinoids), to include, but not limited to, "bath

salts,” “plant food,” “incense,” or “insect repellent,” but excluding legitimate bath salts containing as the main ingredient the chemicals sodium chloride (sea salt) and / or magnesium sulfate (Epsom salt), or legitimate plant foods or insect repellent not intended for human consumption, or legitimate incense used as an odor elimination product.

(c) any similar substances to the above which when inhaled, or otherwise ingested, may produce intoxication, stupefaction, giddiness, paralysis, irrational behavior, or in any manner, changes, distorts, or disturbs the auditory, visual, or mental process, and the product or substance has no other apparent legitimate purpose for consumers.

(2) “Deliver” or “Delivery” as used in this section shall mean the actual, constructive, or attempted transfer from one person to another of a synthetic drug as defined herein, with or without any consideration, and whether or not there is an agency relationship.

(3) “Manufacture” as used in this section shall mean the production, preparation, propagation, compounding, conversion, or processing of any synthetic drug as defined herein, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that the term “manufacture” shall not include the preparation, compounding, packaging, or labeling of any synthetic drug as defined herein by: (A) A practitioner as an incident to administering or dispensing any synthetic drug as defined herein in the course of professional practice; and (B) a practitioner, or an authorized agent under the practitioner’s supervision, for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale.

(4) “Administer” as used in this section shall mean the direct application of a synthetic drug as defined herein, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by: (A) a practitioner or by the practitioner’s authorized agent in the practitioner’s presence; or (B) the patient or research subject at the direction and in the presence of the practitioner.

(5) “Agent” as used in this section shall mean an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. “Agent” does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

(6) “Dispense” as used in this section shall mean to deliver a synthetic drug as defined herein to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(7) “Distribute” as used in this section shall mean to deliver other than by administering or dispensing a synthetic drug as defined herein.

(8) “Practitioner” as used in this section shall mean: (A) a physician, dentist, optometrist, veterinarian, pharmacist, scientific investigator or other person who is licensed, registered, or otherwise lawfully permitted to distribute, dispense, conduct research with respect to, or to administer a synthetic drug as defined herein in the course of professional practice or research in the State of Tennessee; or (B) a pharmacy, hospital or other institution licensed, registered, or otherwise lawfully permitted to distribute, dispense, conduct research with respect to, or to administer a synthetic drug as defined herein in the course of professional practice or research in the State of Tennessee.

(9) “Person” as used in this section shall mean any individual, corporation, partnership, trust, estate, association, organization, business, or any other legal entity.

(10) “Sell” or “Sale” as used in this section shall mean a bargained-for or agreed upon offer and acceptance and an actual or constructive transfer or delivery of a synthetic drug as defined herein.

(11) “Production” as used in this section shall mean the planting, cultivating, tending, growing, or harvesting of a synthetic drug as defined in this section.

(12) “Possess” or “Possession” as used in this section shall mean either actual possession or constructive possession. (A) “Actual Possession” as used in this section shall mean the exercise of direct physical control or dominion over an object. (B) “Constructive Possession” as used in this section shall mean the power and intent to exercise control over an object although not in actual physical possession of an object. Possession may be sole or joint and may be inferred from all relevant facts surrounding the circumstances.

b. Prohibited Conduct.

(1) It shall be unlawful for any person to use, possess, sell, deliver, distribute, transport, transfer, trade, barter, exchange or purchase any synthetic drug as defined herein, or to attempt to use, possess, sale, deliver, distribute, transport, transfer, trade, barter, exchange or purchase any synthetic drug as defined herein, within the City corporate limits and extending one mile therefrom.

(2) It shall be unlawful for any person to publicly display for sale any synthetic drug as defined herein, within the City corporate limits and extending one mile therefrom.

c. Exception. An act otherwise prohibited and unlawful under this section shall not be unlawful if done by or under the direction of a “practitioner” as defined herein, provided such act is otherwise permitted by general law, or to otherwise prohibit substances regulated as controlled substances by the United States Food and Drug

Administration or the Drug Enforcement Administration, and is not intended to and shall not be construed to supersede any other federal or state law pertaining to synthetic drugs now or hereafter in effect, but to supplement any such laws in so far as lawfully permitted.

d. Civil Penalty. Any City of Lebanon sworn law enforcement officer is hereby empowered to issue a citation to any person for any violation of the provisions of this section. Citations so issued may be delivered in person to the violator or they may be delivered by registered mail to the person so charged if he cannot be readily found. Any citation so delivered or mailed shall direct the alleged violator to appear in City Court on a specific day and at a specific hour stated upon the citation; and the time so specified shall be not less than seventy-two (72) hours after its delivery in person to the alleged violator, or less than ten (10) days of mailing of same. Citations issued for a violation of any of the provisions of this section shall be tried in the City Court. The City Court Judge shall determine whether a defendant has committed a violation of this section. The City shall bear the burden of proof by a preponderance of the evidence. If a defendant pleads guilty or “no contest” to the alleged violation, or is found guilty by the City Court Judge, the City Court Judge shall assess a civil monetary fine as a penalty against any person found to have violated any of the provisions of this section, said fine to be in an amount of fifty dollars (\$50.00) for each violation. Each day of violation shall be deemed a separate violation. Each separate package containing any substance containing any synthetic drug as defined herein shall be deemed a separate violation. In addition to the civil monetary fine, any defendant who pleads guilty or “no contest” to the alleged violation, or who is found guilty by the City Court Judge, shall be assessed court costs as provided by law, and in addition shall be ordered to pay an administrative fee to the City in an amount to recoup the cost incurred by the City law enforcement agency for any chemical test conducted by or at the request of the law enforcement agency that is used to determine the chemical content of any substance collected from the defendant which formed the basis for any citation charge. Appeal may be had as provided by law.

2. If any section, subsection, sentence, clause, phrase, paragraph, word or provision or part thereof of this Ordinance is for any reason held to be invalid or unlawful by any court of competent jurisdiction, such decision shall not be construed to affect the validity of any remaining section, subsection, sentence, clause, phrase, paragraph, word or provision or part thereof and the same shall continue in full force and effect.

(Ord. # 11-3929, §1, July 6, 2011)

11-808. Prohibition against intrusive and unsafe panhandling.

(1) In enacting this section, the Lebanon City Council intends to protect the health, safety, and welfare of the general public by imposing regulations against all unsafe panhandling. This section imposes reasonable time, place and manner restrictions on unsafe panhandling while respecting

the constitutional rights of free speech for all residents. Any person deemed to be engaging in intrusive or unsafe panhandling in any manner set forth below shall be subject to a fifty-dollar (\$50.00) fine in the Lebanon Municipal Court.

(2) The Lebanon City Council finds that panhandling on roadway median strips and traffic intersections is unsafe, causes a disturbance, and is disruptive to residents and transit dependent persons and could cause traffic and life safety issues for motorists as well as pedestrians.

(3) The practice of panhandling for contributions from persons in vehicles in the public roadway from a median strip or near intersections subjects the panhandlers and vehicles to an unacceptable level of danger. Drivers become distracted from their primary duty to watch traffic which results in the delay and obstruction of the public's free flow of travel. These activities further result in the congestion and blockage of streets when such persons approach the vehicles to negotiate with the occupants. The most severe impacts are experienced when money or other items of value are directly and immediately exchanged, hand to hand, in the public right of way as a result of the solicitation. Distracted drivers are more prone to be involved in automobile accidents, and accidents on the public streets constitute a substantial traffic safety problem.

(4) The Lebanon City Council finds that the practice of panhandling near driveways accessing shopping centers and other retail and business establishments presents an unacceptable level of danger for panhandlers, pedestrians, and vehicles. The location of the panhandler near the driveway interferes with the drivers' vision and ability to safely enter and exit the driveway. Furthermore, drivers become distracted from their duty to watch traffic as they maneuver to avoid a panhandler preventing safe access to the driveway, then causes vehicular congestion and blockage of traffic. As set forth above, distracted drivers are more prone to automobile accidents and the safety risk to the panhandlers increase.

(5) The city council further finds that panhandling from people in places where they are a "captive audience", (in which it is impossible or difficult for them to exercise their own rights to decline to listen to or avoid panhandling from others) is abusive, infringes upon the rights of transit-dependent persons and residents to the quiet enjoyment of these public facilities on which these persons necessarily rely, increases the vulnerability to intimidation of such residents since they must have cash out or readily available at such sites, and creates an unacceptable risk to the resident's safety and welfare. Such places include automated teller machines, gas stations, public transportation vehicles, and designated public transportation stops. Restricting panhandling in these places will provide a balance between the rights of panhandlers and the rights of persons who will commonly be carrying cash on their persons and wish to decline or avoid such panhandlers.

(6) The restrictions contained herein are neither overbroad nor vague and are narrowly tailored to serve a substantial governmental interest. The goal of this section is to protect the city residents, visitors and panhandlers from traffic safety problems, along with intrusive conduct and personal intimidation that may result from panhandling.

(7) Reasonable time, place and manner restrictions on panhandling will avoid these negative effects and will not unreasonably restrict the expressive activity of people engaging in panhandling.

(8) Definitions: For the purpose of this section, unless the context clearly requires a different meaning, the words, terms and phrases shall mean as follows:

(a) *Automated teller machine (ATM)* means any electronic information processing device which accepts or dispenses cash in connection with a credit, deposit or convenience account.

(b) *Automated teller machine facility* means the area comprised of one or more automated teller machine, and any adjacent space which is made available to banking customers after regular banking hours.

(c) *Donation* means a gift of money or other item of value and shall also include the purchase of an item for an amount exceeding its value under the circumstances where a reasonable person would understand that the purchase is in substance a gift.

(Added by Ord. #18-5613 May 1, 2018)

CHAPTER 9

JUVENILE CURFEW

SECTION

- 11-901. Title.
- 11-902. Definitions.
- 11-903. Restrictions.
- 11-904. Exceptions.
- 11-905. Enforcement.
- 11-906. Construction of severability.
- 11-907. Continuing evaluation.
- 11-908. Effective date.
- 11-909. Notice.
- 11-910. Ordinance cumulative.

11-901. Title. This chapter shall be known as the "Juvenile Curfew Ordinance." (as added by Ord. #94-1215, Dec. 6, 1994)

11-902. Definitions. For purposes of this chapter the following terms, phrases, or words used in the present tense include the future, words in the plural number include the singular and words in the singular include the plural. The word "shall" is always mandatory and not merely directory.

- (1) "City" is the City of Lebanon, Tennessee.
- (2) "Minor" or "Juvenile" is any unemancipated person under the age of eighteen (18) or in equivalent phrasing often herein employed, any person seventeen (17) years or less.
- (3) "Parent" is any person having legal custody of a minor
 - (a) as a natural or adoptive parent;
 - (b) as a legal guardian; or
 - (c) as a person to whom legal custody has been given by order of the court.
- (4) "Remain" means to stay behind, to tarry and to stay unnecessarily upon the streets, and/or public parking areas, including the congregation of groups (or of interacting minors) totaling three or more persons in which any minor involved would not be using the streets or parking lots for ordinary or serious purposes such as mere passage or going home. To implement that thought with additional precision and precaution, numerous exemptions are expressly defined in section 11-903 herein, so this is not a mere prohibitory or presence type curfew ordinance.
- (5) "Street" is a way or place, of whatsoever nature, open to the use of the public as a matter of right for purposes of vehicular travel.
- (6) "Time", whether Central Standard Time or Central Daylight Savings Time, is the time generally observed at that hour by the public in the

city, prima facie the time when observed in the city administration offices and police department.

(7) "Year of age" continues from one birthday, such as the seventeenth, to (but not including the day of) the next, making it clear that seventeen (17) or less years of age is herein treated as equivalent to the phrase "under eighteen (18) years of age," unless specifically defined differently herein.

(8) "The police department" shall refer to the Police Department of the City of Lebanon, Tennessee.

(9) "Public place" shall refer to any street, alley, avenue, highway, road, curb area sidewalk, park, playground, public parking lot, or place to which the general public has access and a right to resort for business, entertainment, or other lawful purpose. A public place shall include, but not be limited to, any store, shop, restaurant, tavern, bowling alley, cafe, theater, drug store, pool room, shopping center, and any other place devoted to amusement or entertainment of the general public. It shall also include the front or immediate area of the above described areas.

(10) "Emergency" means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, or an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

(11) "Serious bodily injury" means bodily injury that creates a substantial risk of death or impairment of the function of any bodily member or organ. (as added by Ord. #94-1215, Dec. 6, 1994)

11-903. Restrictions. It shall be unlawful for any minor under eighteen (18) years of age to remain in or upon any public place within the city during the time period ending at 5:00 a.m. and beginning at 11:00 p.m., Sunday through Thursday, and during a period ending at 5:00 a.m. and beginning at 12:00 midnight, Friday and Saturday, except under the exceptions stated herein.

It shall further be unlawful for a parent of a minor to knowingly permit or by inefficient or insufficient control to allow such minor to be or remain in any public place within the city under circumstances in violation of this chapter and not constituting an exception to, or otherwise beyond the scope of, this curfew ordinance. The term "knowingly" includes knowledge which a parent should reasonably be expected to have concerning the whereabouts of a minor in that parent's legal custody. It is intended that the requirements of this chapter shall keep neglectful or careless parents up to a reasonable community standard of parental responsibility through an objective test. It shall, a fortiori, be no defense that a parent was completely indifferent to the activities or conduct or whereabouts of such minor child. (as added by Ord. #94-1215, Dec. 6, 1994)

11-904. Exceptions. It shall be a valid exception to the operation of the curfew if the minor was:

- (1) at any time, accompanied by his or her parent;
- (2) accompanied by an adult authorized by a parent of such minor to take said parent's place in accompanying said minor for a designated period of time and purpose within a specified area; or

(3) legally employed, for the period from forty-five minutes after work, while going directly between his or her home and place of employment without any stop or detour. This exception shall also apply if the minor is in a public place during curfew hours in the course of his or her employment. To come within this exception, the minor must be carrying a written statement of employment issued by the employer; or

(4) on the property of or the sidewalk directly adjacent to the place where such minor resides or the place immediately adjacent thereto if the owner of the adjacent building does not communicate an objection to the minor and the police officer;

(5) returning home by a direct route from (and within forty-five (45) minutes of the termination of) a school activity or an activity of a religious or other voluntary association or a place of public entertainment, such as a movie, play or sporting event. This exception will not apply beyond 1:30 a.m. If the event is not commercial in nature or does not have a fixed, public known time at which it will or does end, the sponsoring organization must register the event with the chief of police (or his assigned representative) at least 24 hours in advance informing the police department of the time such event is scheduled to begin the place at which it shall be held, and the approximate time at which it shall end and the name of the sponsoring organization;

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

(7) exercising First Amendment rights protected by the United States Constitution such as the free exercise of religion, freedom of speech and the right of assembly;

(8) involved in an emergency, or

(9) married or had been married or had disability of minority removed in accordance with Tennessee law.

Each of the foregoing exemptions, and their several limitations, such as provisions for notification, are severable. (as added by Ord. #94-1215, Dec. 6, 1994)

11-905. Enforcement. (1) A police officer of the city who has probable cause to believe that a minor is in violation of this chapter shall upon the first violation:

(a) ascertain the name and address of the minor;

(b) attempt to ascertain the name and address of the parent or parents of said minor;

(c) issue the minor a written warning that the minor is in violation of this chapter; and

(d) order the minor to go promptly home by a direct route; and

(e) attempt to issue a written notification, by mail, to the parent of said minor, giving the parent a notice of said warning citation; and

(f) cause the name and address of the minor to be lodged for a period of twelve (12) months thereafter with the police department for future reference in the enforcement of this curfew ordinance.

(2) Notwithstanding paragraph (1) of this section, a police officer who has probable cause to believe that a minor has received a prior written warning concerning a curfew violation and is in violation of this chapter, shall immediately transport the minor to the police department if:

(a) the minor during the past twelve (12) months has received one previous written warning for violation of this chapter; or,

(b) the officer has reasonable grounds to believe the minor has engaged in delinquent conduct;

When a minor is taken to the police department, the minor's parents shall be immediately contacted, if possible. If after this contact there is still probable cause to believe the minor was violating this chapter, the minor shall be held under protective custody until the parent comes to take the minor child home. When the parent arrives he or she shall be given a copy of this chapter. If no parent has arrived within one hour after taking the minor into protective custody, the officer shall take either of the following courses of action;

(a) serve the minor with an additional warning citation and later serve the parent of said minor with a citation to appear with the minor in city court concerning the violation of this chapter by the parent; or

(b) the minor may be turned over to the custody of the local juvenile authorities until a parent can be located and can take custody of him or her.

(3) In case of a second violation by a minor within twelve (12) months, the chief of police shall, by certified mail, send to the minor's parent written notice of said violation with a warning that any subsequent violation will result in a full enforcement of the curfew ordinance, including enforcement of parental responsibility and of applicable penalties. Said notice shall be sent to the minor's parent at his or her last known address and evidence of its mailing by certified mail shall constitute sufficient notice of the minor's violation.

(4) If after the mailing of the notice set forth in subsection (3) herein of a second violation by a minor, a parent violates section 11-903 (in connection with a third violation by a minor) this action shall be treated as an offense on behalf of the parent.

(5) For each first parental offense, a parent shall be fined twenty-five (\$25.00) dollars, unless the court finds just cause for waiving the fine. For each subsequent offense by a parent, under this chapter, the fine shall not be less than fifty (\$50.00) dollars.

(6) Jurisdiction for enforcement of warning citations against the minor and parental citations against the parent shall be in the City Court of Lebanon, Tennessee, however, action which requires legal steps against the minor (other than warnings) shall be enforced in the Juvenile Court of Wilson County, Tennessee. All fines against any parent for failure to have minors under their control pursuant to the conditions of this chapter may be enforced by the city court or any other court of competent jurisdiction. Juveniles brought before the city court on warning citations shall be informed as to the possibilities of juvenile court jurisdiction and enforcement for future activities which may be

contrary to the conditions of this chapter. (as added by Ord. #94-1215, Dec. 6, 1994)

11-906. Construction of severability. Severability is intended throughout and within the provisions of the curfew ordinance. If any provision including inter alia any exception, part phrase or term of the application to any person or circumstances is held invalid the application to other persons or circumstances shall not be affected thereby. The Mayor and City Council of Lebanon, Tennessee does not intend a result that is absurd, impossible to execute or unreasonable. It is intended that the Curfew Ordinance be held inapplicable in such cases, if any, where its application would be unconstitutional. A constitutional construction is intended and shall be given. The Mayor and City Council of Lebanon, Tennessee does not intend to violate the Constitution of the State of Tennessee or the Constitution of the United States of America. (as added by Ord. #94-1215, Dec. 6, 1994)

11-907. Continuing evaluation. The City Council of Lebanon, Tennessee will continue its evaluation and updating of this Curfew Ordinance through methods including, but not limited to:

Within six (6) months after the implementation of this chapter, the chief of police shall provide the city council with a report concerning the effect of this chapter on crimes committed by and against minors and of the number of warnings issued and arrest of minor and parents hereunder, and such other information as the city council may request.

After receipt of the police chief's report to the city council, the mayor shall place this matter on the city council agenda for later discussion, review and continuing evaluation as the city council deems appropriate.

The police chief shall report at least annually to the city council as to the violations of this chapter. (as added by Ord. #94-1215, Dec. 6, 1994)

11-908. Effective date. This chapter shall be in full force and effect and shall be enforced thirty (30) days after its passage on final reading.¹¹ (as added by Ord. #94-1215, Dec. 6, 1994)

11-909. Notice. The commissioner of finance shall provide notice of this chapter and of the curfew regulations established by it by having copies of this chapter posted in, on or about such public or quasi-public places as may be determined by the city council in order that the public may be constantly informed of the existence of the chapter and its amendments and regulations. In addition, the commissioner of finance shall cause a notice to be placed in a newspaper of general circulation giving an outline as to the terms and conditions of the subject chapter. (as added by Ord. #94-1215, Dec. 6, 1994)

11-910. Ordinance cumulative. This chapter shall be cumulative and in addition to any other laws in force. (as added by Ord. #94-1215, Dec. 6, 1994)

¹ These provisions were taken from Ord. #94-1215 which passed second reading Dec. 6, 1994.

CHAPTER 10

MISCELLANEOUS OFFENSES

SECTION

- 11-1001. Loitering on the public square prohibited.
- 11-1002. Open containers of beer or alcoholic beverages prohibited.
- 11-1003. Littering.
- 11-1004. Posting of signs.
- 11-1005. Definition of loitering.
- 11-1006. Trespassing.

11-1001. Loitering on the public square prohibited. That on and after the passage of this chapter,¹ during the hours of 9:00 p.m. through 4:00 a.m. on Sunday through Thursday or during the hours of 10:00 p.m. through 4:00 a.m. on Friday and Saturday night, no person or persons shall be allowed to sit in or congregate around automobiles or other vehicles on the public square of Lebanon, Tennessee in that area adjacent to the statue of General Hatton which is bounded by the street right-of-way that circles the square, unless a recognized or city sponsored public event is occurring during those hours. Any person or persons found to be sitting on the public square in the above described area, during the time stated, shall be requested to remove themselves and their vehicle from the subject area, and if the removal is not accomplished within a reasonable time, the person(s) shall be found in violation of this chapter and shall furthermore be found to be guilty of loitering. For purpose of this section, a reasonable time is a period of not more than five (5) minutes from receipt of the warning. (Ord. #94-1247, § 1, Dec. 6, 1994)

11-1002. Open containers of beer or alcoholic beverages prohibited.² (1) No open containers of beer or alcoholic beverages shall be displayed by any person during the occupancy of any vehicle located on the public square, or upon any public parking lot within the city limits, or upon any private parking lot which is posted pursuant to the notices stated herein. For purposes of definition, occupancy of a vehicle shall include any person who has left a vehicle and is standing nearby in the general vicinity of the vehicle.

(2) No person shall carry or display an open container of beer or alcoholic beverage upon the city streets of Lebanon, Tennessee or upon public property, including but not limited to school property and park property.

(3) No person shall carry or display any open container of beer or alcoholic beverage upon a private parking lot during the hours defined by a posting notice on said lot where the owner or operator of the private parking lot

¹ These provisions were taken from Ord. #94-1247, which passed second reading Dec. 6, 1994.

² Municipal code reference

Alcoholic beverages: Title 9.

Municipal offenses—alcohol: title 11, Ch. 2.

has posted a notice pursuant to the provisions described in this chapter. (Ord. #94-1247, §§ 2, 3 and 4, Dec. 6, 1994)

11-1003. Littering. No person shall cause littering to occur on a private parking lot which is posted pursuant to the provisions of this law. (Ord. #94-1247, § 5, Dec. 6, 1994)

11-1004. Posting of signs. Any property owner or manager of a parking lot may choose to provide protection for their property by posting visible signs in one or more location which clearly shows that the subject parking lot is a "posted area" and is subject to the provisions of this ordinance. The sign shall state the following minimum warning:

WARNING-POSTED AREA

No loitering or standing is allowed in this parking lot from and after _____ p.m. until 4:00 a.m. in the morning, except by express permission of the owner or manager. Violators shall be prosecuted under the provisions of Ordinance No. _____ and are subject to a fine and penalty.

Businesses who are open twenty-four (24) hours per day may place an additional provision which states "persons or vehicles occupying the subject premises during the above hours must be customers or they shall be subject to prosecution". (Ord. #94-1247, § 6, Dec. 6, 1994)

11-1005. Definition of loitering. For purposes of this chapter a person is guilty of the offense of loitering if that person;

- (1) Remains on posted property, public or private, after the hours described in the posted warning sign; and
- (2) Continues to remain after receiving a warning from the owner or manager of the private property or from the police and the person has refused to move from said premises within a reasonable time.

For purposes of this chapter, a reasonable time for a person to remove themselves from a posted area, after receiving a warning, shall be a period of not more than five (5) minutes from the receipt of the warning. (Ord. #94-1247, § 7, Dec. 6, 1994)

11-1006. Trespassing.¹³ It shall also be unlawful for any person to commit civil trespass within the city limits;

- (1) A person commits civil trespass who, knowing they do not have the owner's effective consent to do so, enters or remains on private property, or a portion thereof. Knowledge that the person did not have the owner's effective consent may be inferred where notice against entering or remaining on the subject private property is given by:

- (a) personal communication to the person by the owner or their

³ Municipal code reference
See also: section 11-701.

agent or by someone with apparent authority to act for the owner; or

(b) the property has a fencing or other enclosure obviously designed to exclude intruders; or

(c) the use of posting reasonably likely to come to the attention of intruders.

(2) It is a defense to the prosecution for the offense of civil trespass if the property is not clearly marked as being restricted and the property is otherwise open to the public; and the persons conduct did not substantially interfere with the owner's use of the property; and upon being requested to move from the property, the person immediately left the premises.

Under the provisions of this section, a person who has received a warning from a law enforcement official and has been requested to leave the premises which are posted in such a manner as to give reasonable notice of the trespass violation, shall be deemed to have committed civil trespass. (Ord. #94-1247, § 8, Dec. 6, 1994)