

## CHAPTER XI. PUBLIC OFFENSES

- Article 1. Uniform Public Offense Code
- Article 2. Loitering
- Article 3. Curfew
- Article 4. Noise
- Article 5. Laser Pointers
- Article 6. Repealed
- Article 7. Miscellaneous Offenses

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### ARTICLE 1. UNIFORM PUBLIC OFFENSE CODE

**11-101. INCORPORATING UNIFORM PUBLIC OFFENSE CODE.** There is hereby incorporated by reference for the purpose of regulating public offenses within the corporate limits of the City of Spring Hill, Kansas, that certain code known as the "Uniform Public Offense Code," 38<sup>th</sup> Edition of 2022, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed. At least one copy of said Uniform Public Offense Code shall be marked or stamped "Official Copy as Incorporated by Ordinance No. 2022-30 of the City of Spring Hill, Kansas," with all sections or portions thereof intended to be omitted, deleted, modified or changed clearly marked to show any such omissions, deletions, modifications or changes, and to which shall be attached a copy of this ordinance and filed with the City Clerk to be open for inspection and available to the public at all reasonable hours. The police department, municipal judge, and all administrative departments of the City charged with enforcement of this ordinance shall be supplied, at the cost of the City, such number of official copies of such Uniform Public Offense Code similarly marked as may be deemed expedient.

(Ord 2013-19) (Ord 2014-20) (Ord 2015-15) (Ord 2016-19) (Ord 2017-13) (Ord 2018-15) (Ord 2019-17)  
(Ord 2021-09) (Ord 2022-30)

### 11-102. AMENDMENT TO UNIFORM PUBLIC OFFENSE CODE

#### 6.8 CRIMINAL LITTERING.

- (a) Except as provided in Section 112.1 of the Standard Traffic Ordinance as adopted by Section 15-101 of the Code of the City of Spring Hill, Kansas, as amended, criminal littering is intentionally or recklessly depositing or causing to be deposited any object or substance into, upon or about:
- (1) Any public street, highway, alley, road, right-of-way, park or other public place, or any lake, stream, watercourse, or other body of water, except by direction of some public officer or employee authorized by law to direct or permit such acts; or
  - (2) Any private property without the consent of the owner or occupant of such property.
- (b) Criminal littering is an unclassified violation punishable:
- (1) Upon a first conviction by a fine of not less than \$250 nor more than \$1,000;
  - (2) Upon a second conviction by a fine of not less than \$1,000 nor more than \$2,000; and
  - (3) Upon a third or subsequent conviction by a fine of not less than \$2,000 nor more than \$4,000.
- (c) In addition to the fines in subsection (b), a person convicted of criminal littering shall be required to pick up litter for a time prescribed by and a place within the jurisdiction of the court.

**11-103. Section 10.5 of the Uniform Public Offense Code is hereby amended to read as follows:**

**10.5 Unlawful Discharge of Firearms.**

It is unlawful to discharge firearms within the City. Unlawful discharge of firearms is the discharging or firing of any gun, rifle, pistol, revolver or other firearm within the City. This Section shall not be construed to apply:

- (a) The firearm is discharged in the lawful defense of one's person, another person or one's property;
- (b) The firearm is discharged at a private or public shooting range;
- (c) The firearm is discharged by authorized law enforcement officers, animal control officers or a person who has a wildlife control permit issued by the Kansas Department of Wildlife, Parks and Tourism;
- (d) The firearm is discharged by special permit of the Chief of Police;
- (e) The firearm is discharged using blanks;
- (f) The firearm is discharged in lawful self-defense or defense of another person against an animal attack;
- (g) The firearm is discharged by firing squads for ceremonials;
- (h) The firearm is discharged by a legitimate gunsmith in pursuit of his or her trade;
- (i) It shall be a defense that the defendant was acting within the scope of K.S.A. 21-3211, K.S.A. 21-3212, K.S.A. 21-3213, K.S.A. 21-3215 or K.S.A. 21-3216, and amendments thereto.

**11-104. Section 6.21 of the Uniform Public Offense Code is hereby amended to read as follows:**

**6.21 Unlawful Hunting.** It shall be unlawful for any person to shoot or hunt any animal or bird within the City.

- (a) This section shall not apply to law enforcement officers or City employees who are acting within the scope of their official duties.
- (b) This section shall not apply to hunting, trapping or relocating of wildlife conducted in accordance with official duties and responsibilities of the Kansas State Department of Wildlife and Parks.
- (c) This section shall not apply to persons acting in accordance with any Special Use Permit authorizing such activity.
- (d) Any landowner or person in lawful possession of any land may post land with signs stating that trapping, or fishing on such land shall be by written permission only. It is unlawful for any person to take wildlife on land which is posted as provided in this subsection, without having in the person's possession the written permission of the owner or person in lawful possession thereof.
- (e) Instead of posting land as provided in subsection (d), any landowner or person in lawful possession of any land may post such land by placing identifying purple paint marks on trees or posts around the area to be posted. Each paint mark shall be a vertical line of at least eight inches in length and the bottom of the mark shall not be less than three feet nor more than five feet high. Such paint marks shall be readily visible to any person approaching the land. Land posted as provided in this subsection shall be considered to be posted by written permission only as provided in subsection (d).

**VIOLATIONS, PENALTIES CLASSES OF VIOLATIONS AND CONFINEMENT.**

- (a) For the purpose of sentencing, the following classes of violations and the punishment and the terms of confinement authorized for each class are established:
  - (1) Class A, the sentence for which shall be a definite term of confinement in the city or county jail which shall be fixed by the court and shall not exceed one year;
  - (2) Class B, the sentence for which shall be a definite term of confinement in the city or county jail which shall be fixed by the court and shall not exceed six months;
  - (3) Class C, the sentence for which shall be a definite term of confinement in the city or county jail

which shall be fixed by the court and shall not exceed one month;

- (4) Unclassified violations, which shall include all offenses declared to be violations without specification as to class, the sentence for which shall be in accordance with the sentence specified in the section that defines the offense; if no penalty is provided in such law, the sentence shall be the same penalty as provided herein for a Class C violation.
- (b) Upon conviction of a violation, a person may be punished by a fine, as provided in Section 12.2 of this article, instead of or in addition to confinement, as provided in this section.
  - (c) In addition to or in lieu of any other sentence authorized by law, whenever there is evidence that the act constituting the violation was substantially related to the possession, use or ingestion of cereal malt beverage or alcoholic liquor by such person, the court may order such person to attend and satisfactorily complete an alcohol or drug education or training program certified by the administrative judge of the judicial district or licensed by the secretary of social and rehabilitation services.

#### **FINES.**

- (a) A person convicted of a violation may, in addition to or instead of the confinement authorized by law, be sentenced to pay a fine which shall be fixed by the court as follows:
  - (1) Class A violation, a sum not exceeding \$2,500.
  - (2) Class B violation, a sum not exceeding \$1,000.
  - (3) Class C violation, a sum not exceeding \$500.
  - (4) Unclassified violation, any sum authorized by the section that defines the offense. If no penalty is provided in such law, the fine shall not exceed the fine provided herein for a Class C violation.
- (b) As an alternative to any of the above fines, the fine imposed may be fixed at any greater sum not exceeding double the pecuniary gain derived from the crime by the offender.

(Ord 2020-11) (2022-30)

### **ARTICLE 2. LOITERING**

**11-201. LOITERING AS MISDEMEANOR--EXCEPTION.** Any person who shall loiter on the public streets, avenues, alleys, sidewalks, school grounds and/or buildings, and other public places within the city, unless such person is for the time being engaged in some lawful business demanding his or her presence upon such street, avenue, alley, sidewalk, school ground and/or building, or other public place, or who shall habitually lurk in public place without being engaged in some lawful business, shall be guilty of a misdemeanor. (Ord 97-01)

### **ARTICLE 3. CURFEW**

#### **11-301. DEFINITIONS.**

- a) Minor is a person under the age of eighteen (18) years of age.
- b) Parent is any person having legal custody of a minor (i) as a natural or adoptive parent, (ii) as a legal guardian, (iii) as a person who stands in loco parentis, or (iv) as a person to whom legal custody has been given by court order.
- c) Establishment is any privately-owned place of business operated for a profit to which the public is invited, including, but not limited to any place of amusement or entertainment.

(Ord 2015-08)

**11-302. CURFEWS FOR CERTAIN MINOR CHILDREN.** It is unlawful for any minor under the age of 18 years to loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places, public buildings, places of amusement or entertainment, eating places, vacant lots or any place unsupervised by an adult having the lawful authority to be at such place during the following period of time:

- a) For minors age 15 and under, between the hours of 11:00 o'clock P.M. on any day and 5:00 o'clock A.M. of the following day, except on Friday night when the hours shall be midnight 12:00 o'clock A.M. to 5:00 o'clock A.M. Saturday morning, and on Saturday night when the hours shall be midnight 12:00 o'clock A.M. to 5:00 A.M. Sunday morning;
- b) For minors age 16 and 17, between the hours of 12:00 o'clock A.M. on any day and 5:00 o'clock A.M. of the following day, except on Friday night when the hours shall be 1:00 o'clock A.M. to 5:00 o'clock A.M. Saturday morning, and on Saturday night when the hours shall be 1:00 o'clock A.M. to 5:00 o'clock A.M. Sunday morning.

(Ord 2015-08)

**11-303. EXCEPTIONS.** The following shall constitute valid exceptions to the operation of this ordinance.

- a) When a minor is accompanied by his or her parent, guardian or other adult person having the lawful care and custody of the minor;
- b) When the minor is on an emergency errand directed by his or her parent or guardian or other adult person having the lawful care and custody of such minor, without any detour or stop;
- c) When the minor is attending an official school, religion or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor, or going to and returning directly home, without any detour or stop, from an official school, religious or other recreational activity supervised by adults and sponsored by the City, a civic organization or another similar entity that takes responsibility for the minor;
- d) When the minor is engaged in an employment activity, or going to or returning directly from lawful employment activity, without detour or stop, that makes it necessary to be in the above-referenced places during the prescribed period of time;
- e) When the minor is attending or traveling directly to or from an activity involving the exercise of first amendment rights of free speech, freedom of assembly or free exercise of religion;
- f) When the minor is in interstate travel through the City of Spring Hill, Kansas;
- g) When the minor is on the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police officer about the minor's presence; and
- h) When the minor is at least 16 years of age and operating a motor vehicle within the City.
- i) When the minor is legally patronizing as a customer, and not loitering, at an establishment as defined in Section 11-301(c).

(Ord 2015-08)

**11-304. Repealed by Ord. 2015-08**

**11-305. Repealed by Ord. 2015-08**

**11-306. PENALTIES.**

- (a) Any minor violating the provisions of this section shall be dealt with in accordance with juvenile court law and procedure. Any police officer who finds a minor under the age of 18 years violating the provisions of this ordinance shall take the minor to the police station where a parent having custody and control of the minor shall immediately be notified to take custody of the minor. When the parent arrives at the police station to take custody of the minor, the minor shall be released to the custody of such person. The Chief of Police shall cause a written notice to be served upon the parent, guardian or person in charge of such child setting forth the manner in which the provisions of this ordinance have been violated. For the purposes of this section, notice shall be deemed properly served upon such parent, guardian or person in charge of a child if a copy thereof is served upon him or her personally or if a copy thereof is sent by certified mail, return receipt requested, to his or her last known address;
- (b) An owner, or operator or any employee of an establishment who shall knowingly permit a minor to loiter upon the premises of the establishment during curfew hours shall be subject to a mandatory, minimum fine of fifty dollars (\$50.00) and maximum fine of five hundred dollars (\$500.00), plus courts cost.
- (c) It is a defense to prosecution of this ordinance that the owner, operator or employee of an establishment promptly notify the police department that a minor was loitering on the premises of the establishment during curfew hours and refused to leave.
- (Ord 2015-08)

**11-307. SEVERABILITY.** Severability is intended throughout and within the provisions of this ordinance, including any provision, exception, part, phrase, or term or the application thereof to any person or circumstances held invalid, the application to other person or circumstances shall not be affected thereby and the validity of the ordinance in any and all other respect shall not be affected thereby.

(Ord 97-08) (Ord 2015-08)

#### ARTICLE 4. NOISE

**11-401. DEFINITION OF PERSON.** The word "person" as used herein shall include the singular and the plural and shall also mean and include any person, firm, corporation, association, club, co-partnership, society, or any other organization.

**11-402. UNNECESSARY SOUND FROM RADIO, ETC. PROHIBITED.** No person owning or having the care, custody or possession of any radio receiving set, musical instrument, phonograph, or other machine or device for the producing or the reproducing of sound shall play, use, operate, or permit to be played, used or operated such set, instrument, phonograph, machine or device in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the persons or person who are in the room or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of ten o'clock P.M. and seven o'clock A.M., in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this ordinance.

**11-403. LOUD SPEAKERS, AMPLIFIERS FOR ADVERTISING, ETC. PROHIBITED, EXCEPTION STATED.** No person owning or operating any building, structure or vehicle shall play, use, operate or permit to be played, used, or operated any radio receiving set, musical instrument, phonograph, loud-speaker, sound amplifier, or other machine or device for the producing or reproducing of sound for the purpose of advertising or attracting the attention of the public to such building structure or vehicle. This section and Section 11-402 hereof shall not be construed as prohibiting the use of sound amplifiers, loud speakers or other devices emitting loud noises during unusual and non-commercial, national, state or municipal events of general public interest.

**11-404. ANY LOUD OR HARMFUL NOISE.** It shall be unlawful for any person to make, continue or cause to be made or continue any loud, improper, unnecessary or unusual noise, or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the

City of Spring Hill, Kansas.

**11-405. PENALTIES FOR VIOLATION.** Any person who violates any provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not exceeding \$500 or imprisonment for not more than six months. Each person shall be deemed guilty of a separate offense for each day during any portion of which violation of the provisions of this ordinance is committed, continued or permitted.

**11-406. SEVERABILITY.** It is the intention of the City Governing Body that each separate provision of this ordinance shall be deemed independent of all other provisions herein, and it is further the intention of the City Governing Body that if any provision of this Act be declared to be invalid, all other provisions thereof shall remain valid and enforceable.

## ARTICLE 5. LASER POINTERS

### 11-501. LASER POINTERS.

- a. 1. Possession by Minors Prohibited: It shall be unlawful for any person under the age of eighteen (18) to possess a laser pointer, except in the residence of that person. All laser pointers in the possession of a minor are deemed contraband, subject to seizure by any duly authorized peace officer with or without process or warrant and shall be subject to forfeiture.
2. Affirmative Defense: It shall be a defense to paragraph (a) (1) above where the laser pointer would have been or was used for a valid school-related or employment purpose and under the direct supervision of a school staff person, instructor, employer, parent, guardian or other responsible adult.
3. Penalty: Any person violating 11-501 shall be guilty of a laser pointer infraction and shall be fined no more than twenty-five dollars (\$25.00).
- b. Illumination of Persons Prohibited: It shall be unlawful for any person to use a laser pointer in such a manner that the laser beam illuminates on any other person tending to reasonably anger, alarm, arouse or cause resentment in that other person.
- c. Illumination of Vehicle Operators Prohibited: It shall be unlawful for any person to use a laser pointer in such a manner that the laser beam illuminates the operator of a motor vehicle.
- d. Illumination of Uniformed Officers Prohibited: It shall be unlawful for any person to use a laser pointer in such a manner that the laser beam illuminates a uniformed police officer, uniformed security guard, uniformed school safety officer, uniformed firefighter, uniformed ambulance worker, uniformed public safety officer, uniformed animal control officer, uniformed parking control member or the marked service vehicle of any of the above listed persons.

For purposes of this Section, a "laser pointer" is any device which emits light amplified by the stimulated emission of radiation that is visible to the human eye and designed to be used as a pointer or highlighter, to indicate, mark or identify a specific position or place, including but not limited to Class 2 lasers, Class 3a and 3b lasers, and Class 4 lasers. For purposes of this Section, any laser used for medical, educational or other legitimate commercial use is not a "laser pointer".

## ARTICLE 6.

(repealed 2019-18)

## ARTICLE 7. MISCELLANEOUS OFFENSES

### 11-701. URINATING OR DEFECATING IN PUBLIC.

- (a) No person shall urinate or defecate in or upon any street, sidewalk, alley, plaza, park, public building,

private property, private parking lot, or in any place open to the public or exposed to public view. This section shall not apply to urination or defecation utilizing appropriate fixtures or in other restroom or other facility designed for the sanitary disposal of human waste.

- (b) Any person who violates any of the provisions of this section within the corporate limits of the city is guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding one thousand dollars (\$1,000) or be imprisoned in jail for a period not to exceed six (6) months, or by both such fine and imprisonment.

(Ord 2022-06)

#### **11-702. INDECENT EXPOSURE.**

- (a) Any person who willfully exposes his or her person or private parts in any public place, or from any place which is reasonably calculated to be viewed from a public place, shall, upon conviction, be guilty of a misdemeanor. For the purpose of this Section, the phrase “persons or private parts” shall include male and female genitalia, buttocks, and female breast to the extent of revealing the areola or areolas.

- (b) Any person who violates any of the provisions of this section within the corporate limits of the city is guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding one thousand dollars (\$1,000) or be imprisoned in jail for a period not to exceed six (6) months, or by both such fine and imprisonment.

(Ord 2022-07)

#### **11-703. Exemptions.**

The prohibitions contained within Chapter XI of the Spring Hill Municipal Code shall not apply to:

- (a) Any child under ten (10) years of age.
- (b) The breast feeding of a child – a mother may breast feed or conduct in breast feeding activities in any place in which she has a right to be. While protected by state and federal law, this exemption provision of the Spring Hill Municipal Code shall apply to Municipal Ordinances and Public Offenses described in Chapter XI of said Municipal Code regardless of amendment or rescission of state or federal law to the fullest legally permissible extent.
- (c) When the conduct prohibited by any section of Chapter XI of the Spring Hill Municipal Code cannot constitutionally be prohibited because it constitutes conduct which is protected by the United States or Kansas Constitution.

(Ord No. 2022-11)