

**AN ORDINANCE TO ESTABLISH A NOCTURNAL CURFEW
APPLICABLE TO JUVENILES WITHIN
THE TOWN OF SPRING HILL**

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF SPRING HILL, pursuant to Tennessee Code Annotated Section 6-2-201 and especially subsections (22) and (32) thereof and the general laws of the State of Tennessee:

SECTION 1. **Short Title.** This Ordinance shall be known and may be cited as the "Curfew Ordinance."

SECTION 2. **Purposes and Findings.** The Board of Mayor and Aldermen of the Town of Spring Hill has determined that juveniles have been causing general disturbances to residents, and contributing to an excessive number of incidents of damage to private and public property and disturbances of the peace; and

The Spring Hill Board of Mayor and Aldermen determines that special and extenuating circumstances presently exist within this City that call for special regulation of minors within the City in order to protect them from each other and from other persons on the street during the nocturnal hours, and to aid in crime prevention, to promote parental supervision and authority over minors and to decrease juvenile crime rates; and

In accordance with the prevailing community standards, this Ordinance serves to regulate the conduct of juveniles on streets during nocturnal hours and those hours prohibited by any applicable state Law, to be effectively and consistently enforced

for the protection of the juveniles in Spring Hill from each other and from other persons on the streets during nocturnal hours, for the enforcement of parental control of, authority over, and responsibility for their children, for the protection of the public from nocturnal mischief by juveniles, for the reduction in the incidents of juvenile criminal activity, for the furtherance of family responsibility and for the public good, safety and welfare; and

After further review and continuing evaluation the Board finds that there is justification for the purposes and findings herein to adopt this Curfew Ordinance.

Section 3. **Definitions.** For purposes of the Curfew Ordinance the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory.

(a) City is the Town of Spring Hill, Tennessee 37174.

(b) Minor or juvenile is any unemancipated person under the age of eighteen (18) years or, in equivalent phrasing often herein employed, any person seventeen (17) or less years of age.

(c) Parent is any person having legal custody of a minor
(i) as a natural or adoptive parent; (ii) as a legal guardian; or
(iii) as a person to whom legal custody has been given by order of the court.

(d) Remain means to stay behind, to tarry and to stay unnecessarily upon the streets, including the congregating of groups (or of interacting minors) totalling four or more persons in which any minor involved would not be using the streets 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 5 so that this is not a mere prohibitory or presence type Curfew Ordinance.

(e) 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 or in the case of time, whether Central Standard Time or Central Daylight Savings Time, generally observed at that hour by the public in the City, prima facie the time when observed in the City administrative offices and Police Department.

(f) 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.**

(g) The Police Department shall refer to the Police Department of the Town of Spring Hill, or any officially designated precinct of said Department.

SECTION 4. **Restrictions.** (a) It shall be unlawful for any minor under eighteen (18) years of age to remain in or upon any public street, highway, park, vacant lot or other public place within the City during period ending at 6:00 a.m. and beginning at:

- i. 12:00 a.m. on Saturday and Sunday mornings, and
- ii. 11:30 p.m. on Sunday night through Thursday night.

(b) It shall further be unlawful for a parent of a minor knowingly to permit or by inefficient control to allow such minor to be or remain upon any City street under circumstances not constituting an exception to, or otherwise beyond the scope of, the 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 to continue to 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.

SECTION 5. **Exceptions.** The following shall constitute valid exceptions to the operation of the curfew.

(a) At any time, if a minor is accompanied by his or her parent;

(b) When 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;

(c) Until the hour of 12:30 a.m. if the minor is on an errand as directed by his or her parent;

(d) If the minor is legally employed, for the period from forty-five minutes before to forty-five minutes after work,

while going directly between his or her home and place of employment. 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 employer pursuant to the authorization of the Chief of Police to expire within ninety (90) days;

(e) Until the hour of 12:30 a.m. if the minor is on the property of or the sidewalk directly adjacent to the place where such minor resides or the place immediately adjacent thereto if the owner of the adjacent building does not communicate an objection to the minor and the police officer;

(f) When returning home by a direct route from (and within thirty [30] minutes of the termination of) a school activity or an activity of a religious or other voluntary association, or a place of public entertainment, such as a movie, play or sporting event. This exception 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 of the Town of Spring Hill Police Department (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, the time at which it shall end and the name of the sponsoring organization;

(g) In the case of reasonable necessity, but only after such minor's parent has communicated to the Police Department personnel the facts establishing 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, duly certified by the Chief of Police to be correct, 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;

(h) When exercising First Amendment rights protected by the United State Constitution, such as the free exercise of religion, freedom of speech and the right of assembly. Such minor shall evidence the bona fides of such exercise and provide notice to City officials by first delivering to the Police Department a written communication, signed by such minor, with their home address and telephone number, addressed to the Mayor of the City specifying when, where and in what manner said minor will be on the streets at night (during hours when the Curfew Ordinance is still otherwise applicable to said minor in the exercise of a First Amendment right specified in such communication;

(i) When a minor is in a motor vehicle.

(j) Each of the foregoing exceptions, and their several limitations, such as provisions for notification, are severable, as hereinafter provided but here re-emphasized.

SECTION 6. **Violations.**

(a) A police officer of the City who has probable cause to believe that a minor is in violation of this Ordinance shall:

- i. ascertain the name and address of the minor;
- ii. issue the minor a written warning that the minor is in violation of this Ordinance; and
- iii. order the minor to go promptly home by a direct route.

(b) Notwithstanding paragraph (a)(i) of this Section, a police officer who has probable cause to believe that minor is in violation of this Ordinance, shall transport the minor to the Police Department if:

- i. the minor has received one previous written warning for violation of this Ordinance; or
- ii. reasonable grounds exist to believe the minor has engaged in delinquent conduct.

(c) When a minor is taken to the Police Department, the minor's parents shall be immediately contacted. If after this contact there is still probable cause to believe that the minor was violating this Ordinance, the minor shall be held until the parent comes to take the minor home. When the parent arrives, he or she shall be given a copy of this Ordinance. If no parent has arrived within two hours, the minor shall be turned over to custody of the local juvenile authorities until a parent can take custody of him or her.

- (d) i. In case of a second violation by a minor, 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 as specified shall constitute sufficient notice of the minor's violation.

- ii. If, after the mailing of the warning notice set forth in subsection (d)(i) herein of a second violation by a minor, a parent violates Section 4(c) (in connection with the third violation by a minor), this shall be treated as a first offense by the parent. For such first parental offense a parent shall be fined twenty-five dollars (\$25.00). For each subsequent offense by a parent the fine shall be increased by an additional twenty-five dollars (\$25.00), e.g. fifty dollars (\$50.00) for the second, seventy-five dollars (\$75.00) for the third offense.

(e) Any minor who shall violate any of the provisions of this Ordinance more than two (2) times shall be dealt with according to the Juvenile Laws of the State of Tennessee and in accordance with the directives of the Juvenile Court of Maury or Williamson County, Tennessee, or such other court as shall have jurisdiction of said minor.

SECTION 7. Construction and 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 or the application to any person or circumstances is held invalid, the application to other persons or circumstances shall not be affected thereby and the validity of the Curfew Ordinance in any and all other respects shall not be affected thereby. The Board 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 Board does not intend to violate the Constitution of the State of Tennessee or the Constitution of the United States of America.

SECTION 8. Continuing Evaluation. The Board of Mayor and Aldermen will continue its evaluation and updating of this Curfew Ordinance through methods including, but not limited to:

(a) Within six (6) months after the implementation of this Ordinance, the Chief of Police shall provide the Board of Mayor and Aldermen with a report concerning the effect of this Ordinance on crimes committed by and against minors, and of the number of warnings issued and arrests of minors and parents hereunder, and such other information as Board may request.

(b) After receipt of the Police Chief's report by the Board of Mayor and Aldermen, the Recorder shall place this matter on the Board agenda for discussion, review and continuing evaluation.

SECTION 9. Effective Date. This ordinance shall be in force upon publication required by Section 6-2-201, Tennessee Code Annotated.

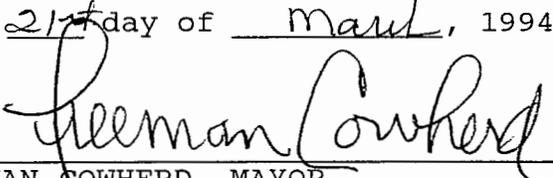
SECTION 10. Notice. The Recorder shall provide notice of this Ordinance and of the curfew regulations established by it by having copies of the Ordinance posted in, on or about such public or quasi-public places as may be determined by the Mayor, Board, and Police Department in order that the public may be

constantly informed of the existence of the Ordinance and its amendments and regulations.

SECTION 11. **Ordinance Cumulative.** This Ordinance shall be cumulative and in addition to any other laws in force.

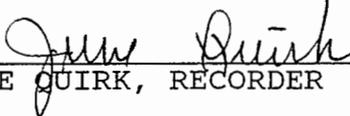
SECTION 12. **Municipal Code.** BE IT FURTHER ORDAINED that the foregoing be codified as Chapter 3 of Title 10 of the Spring Hill Municipal Code which is hereby accordingly amended.

Passed and adopted by the Board of Mayor and Aldermen of the Town of Spring Hill on this the 21st day of March, 1994.



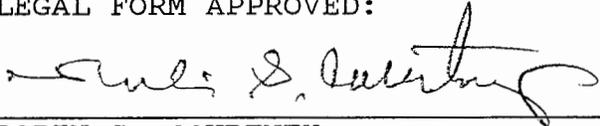
FREEMAN COWHERD, MAYOR

ATTEST:



JUNE QUIRK, RECORDER

LEGAL FORM APPROVED:



ROBIN S. COURTNEY,
TOWN ATTORNEY

Passed on 1st Reading: 2-21-94
Passed on 2nd Reading: 3-21-94