

ORDINANCE 14-18

AN ORDINANCE AMENDING TITLE 3, CHAPTER 2 OF THE SPRING HILL MUNICIPAL CODE TO MAKE THE FAILURE TO APPEAR BEFORE THE CITY COURT A SEPARATE OFFENSE OF CONTEMPT OF COURT

WHEREAS, the Board of Mayor and Aldermen of the City of Spring Hill, desiring that the ends of justice and court administrative efficiency be met, wish to discourage persons cited for a violation of law or lawfully notified of a violation and commanded to appear, have been subpoenaed, summoned, or otherwise ordered to appear before the City Court of the City of Spring Hill from failing to appear when the person has been issued a notice of violation of a traffic law and/or a City ordinance, or has been summoned, subpoenaed, or otherwise ordered to appear:

NOW THEREFORE,

SECTION I. BE IT ORDAINED by the Board of Mayor and Aldermen of the City of Spring Hill that Title 3, Chapter 2 of the Spring Hill Municipal Code be amended to add a Section 3-208, which shall read as follows:

3-208. Separate Offense: Failure to Appear as Contempt of Court

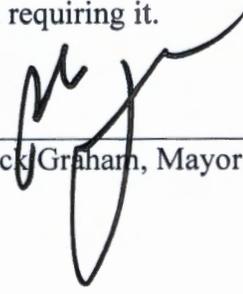
- (1) It shall constitute a separate offense for any person notified to appear in City Court to fail to appear on the date and at the time that they have been notified to appear
 - (a) when an offender has signed an agreement and waiver in lieu of arrest contained in the citation(s);
 - (b) as commanded in a notice of violation, summons, subpoena or other lawful order of the court, ordering a person to appear;
 - (c) and/or as commanded by a verbal order of the court to a person at a previous appearance by that person in court.
- (2) Upon a person's failure to appear in Court as set forth in sub-section (1)(a)-(c) above, the Court shall provide the offender with notice of a separate show cause hearing date and time at which the offender may appear and show persuasive cause for why they failed to appear in City Court on the hearing date set for the original offense, or as otherwise commanded to appear in City Court, and why

they should not be found guilty of failure to appear and contempt of City Court. However the failure to appear at the show cause hearing shall not be treated as an additional failure to appear offense, but as a default and admission of guilt on the failure to appear charge.

- (3) A violation of the separate offense of failure to appear shall result in a fine of \$50.00, plus court costs and litigation taxes, as well as a \$35.00 fee for the administrative costs associated with the scheduling, notice and adjudication of the separate contempt charge for failure to appear.
- (4) The power to punish under this section may not be used against any person who fails to appear for parking violations. (Tennessee Code Annotated §29-9-108(a)(3)).

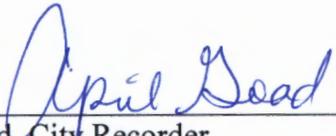
SECTION II. BE IT FURTHER ORDAINED by the Board of Mayor and Aldermen of the City of Spring Hill that if any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to that end the provisions of this ordinance are declared to be severable.

SECTION III. BE IT FINALLY ORDAINED by the Board of Mayor and Aldermen of the City of Spring Hill that this ordinance shall take effect on July 1, 2014, the health, safety and welfare of the citizens of Spring Hill requiring it.



Rick Graham, Mayor

ATTEST:



April Goad, City Recorder

LEGAL FORM APPROVED:



Patrick Carter, City Attorney

Passed on First Reading: April 21, 2014

Passed on Second Reading: May 19, 2014



REQUEST: **Approval of Ordinance 14-18**

SUBMITTED BY: Victor Lay, City Administrator
City Staff, Department and Title

DATE: April 11, 2014

RE: Making failure to appear before the City Court a separate offense of Contempt of Court, and collecting applicable fines, court cost, litigation tax and an administrative fee as allowed by law.

ATTACHMENTS: Failure to Appear Statistics Spreadsheet
Cost of Mailing Show Cause Orders via Certified Mail

PURPOSE:

The purpose of this ordinance is to discourage persons from failing to appear for City Court, by making failure to appear a separate offense of contempt of court and collecting the applicable fine, court cost, litigation tax and an administrative fee as allowed by law.

Please see the attached spreadsheet reporting the number of cases for which defendants failed to appear for court during the past four years. There are approximately 47 FTA's (failures to appear) each month.

With this ordinance in place, when a defendant fails to appear in court, they are sent a notice via certified mail informing them of their original failure to appear, and setting a date and time for a show cause hearing. At this show cause hearing, or second court date, the defendant is given the opportunity to explain to the Judge why they did not appear on the original court date and why they should not be held in contempt of court for that failure to appear.

BACKGROUND:

Currently in City Court, if a defendant fails to appear for court, he/she is guilty by default and is charged the following:

Maximum Fine	\$50.00
Court Cost	\$75.00



State Litigation Tax	<u>\$13.75</u>
Total Collected:	<u>\$138.75</u>

If this ordinance is passed and failure to appear is considered contempt of court, in addition to being guilty by default and owing \$138.75 for the original charge, an additional charge of contempt is added to the same citation, as well as an additional fine, court cost, litigation tax and an administrative fee. The administrative fee is \$35.00 and covers the cost of the additional administrative burden associated with statutorily required notice to the defendant by certified mail, the scheduling of the charge on a separate Show Cause Hearing Docket and the expense of processing the Show Cause orders. The total due for the citation would be \$312.50, as follows:

Maximum Fine (for original charge)	\$50.00
Court Cost (for original charge)	\$75.00
State Litigation Tax (for original charge)	\$13.75
Maximum Fine (for Contempt charge)	\$50.00
Court Cost (for Contempt charge)	\$75.00
State Litigation Tax (for Contempt charge)	\$13.75
Administrative Fee	<u>\$35.00</u>
Total Collected:	<u>\$312.50</u>

(State law references: T.C.A. §29-9-108(a)(1); T.C.A. §29-9-108(a)(3); T.C.A. §16-18-306

Spring Hill Municipal Code reference: Title 3, Chapter 2, 15-702)

FINANCIAL IMPACT:

Currently this fiscal year, there have been 431 charges for which defendants failed to appear for court. If this ordinance had been in place and failure to appear was considered contempt of court, an additional \$173.75 (fine, court cost, litigation tax & administrative fee) could have been collected for each of these 431 charges, for a total of \$74,886.25 in additional court revenue.

STAFF RECOMMENDATION:

Favorable



ACTION REQUIRED (INCLUDE DEADLINE /PRIORITY):

This will take 2 readings (months) to adopt.

Failure to Appear Statistics for Spring Hill Municipal Court

(# of cases for which defendants failed to appear for court)

MONTH	FISCAL YEAR 2009 To 2010	FISCAL YEAR 2010 TO 2011	FISCAL YEAR 2011 TO 2012	FISCAL YEAR 2012 TO 2013	FISCAL YEAR 2013 TO 2014
July	88	64	26	44	55
August	48	57	22	59	26
September	99	76	58	65	21
October	61	46	51	45	58
November	68	25	45	40	58
December	64	30	27	40	35
January	50	36	41	43	42
February	45	17	34	30	52
March	63	47	47	40	84
April	43	57	51	34	
May	71	43	46	18	
June	64	30	46	17	
YEARLY TOTAL:	764	528	494	475	431
MONTHLY AVERAGE:	64	44	39	40	48

**Spring Hill Municipal Court Monthly Statistics
FY August 2010 to Present FY**

<u>MONTH</u>	<u># Charges Heard</u>	<u># Failures to Appear ("FTA")</u>	<u>TOTAL MonthlyCourt Revenue</u>	<u>NOTES</u>
<u>FY 8/2010-6/2011*</u>				
8/31/2010	320	57	\$21,141.31	(Appointed 8/2010)
9/30/2010	327	76	\$19,904.03	
10/31/2010	197	46	\$13,842.26	
11/30/2010	169	25	\$13,746.41	
12/31/2010	149	30	\$7,806.10	
1/31/2011	136	36	\$9,772.12	
2/28/2011	104	17	\$9,503.74	
3/31/2011	209	47	\$17,215.44	
4/30/2011	229	57	\$11,957.20	
5/31/2011	200	43	\$12,870.00	
<u>6/30/2011</u>	<u>207</u>	<u>30</u>	<u>\$16,344.12</u>	
TOTAL 8/2010-6/2011*	2247	464	\$154,102.73	20.6% of Offenses "FTA"
FY 8/2010-6/2011* Average per Month	204.27	42.18	\$14,009.34	
<u>FY 2011-2012</u>				
7/31/2011	124	26	\$10,506.54	
8/31/2011	126	22	\$11,148.49	
9/30/2011	191	58	\$15,372.30	
10/31/2011	193	51	\$14,042.86	
11/30/2011	159	45	\$13,030.27	
12/31/2011	108	27	\$9,753.15	
1/31/2012	138	41	\$11,471.59	
2/28/2012	101	34	\$10,883.58	
3/31/2012	187	47	\$16,160.00	
4/30/2012	158	51	\$11,693.86	
5/31/2012	121	46	\$13,098.08	
<u>6/30/2012</u>	<u>158</u>	<u>46</u>	<u>\$12,763.97</u>	
TOTAL FY 2011-2012	1764	494	\$149,924.69	28.0% of Offenses "FTA"
FY 2011-2012 Average per Month	147	41.17	\$12,493.72	

* = Partial Year Statistics

**Spring Hill Municipal Court Monthly Statistics
FY August 2010 to Present FY**

<u>MONTH</u>	<u># Charges Heard</u>	<u># Failures to Appear</u>	<u>TOTAL Monthly Court Revenue</u>
<u>FY 2012-2013</u>			
7/31/2012	164	44	\$13,770.83
8/31/2012	217	59	\$17,286.82
9/30/2012	247	65	\$17,745.07
10/31/2012	137	45	\$12,446.16
11/30/2012	145	40	\$11,035.74
12/31/2012	135	40	\$7,046.49
1/31/2013	142	43	\$9,802.40
2/28/2013	148	30	\$10,188.22
3/31/2013	108	40	\$8,487.87
4/30/2013	113	34	\$9,665.79
5/31/2013	87	18	\$5,801.56
6/30/2013	119	17	\$10,164.22
TOTAL FY 2012-2013	1762	475	\$133,441.17 27% of Offenses "FTA"
FY 2012-2013 Average per Month	146.58	39.58	\$11,120.10
<u>FY 7/2013-3/2014*</u>			
7/31/2013	204	55	\$9,667.79
8/31/2013	134	26	\$8,889.58
9/30/2013	178	21	\$9,291.21
10/31/2013	318	58	\$16,762.89
11/30/2013	342	58	\$14,540.27
12/31/2013	206	35	\$15,466.56
1/31/2014	247	42	\$14,825.96
2/28/2014	301	52	\$23,313.52
3/31/2014	307	84	\$18,292.86
TOTAL FY TO DATE 7/2013-3/2014*	2237	431	\$131,050.64 19.4% of Offenses "FTA"
FY 2014-2015* Average per Month	248.56	47.89	\$14,561.18
<u>LAST 6 MOS.</u>			
(10/31/2013-3/31/2014)			
TOTALS	1,721	329	51.5 % Increase over the Prior 6 months — 835 Offenses Heard 4/30/2013-9/30/2013 (in Green shaded area)
Average per Month	286.8	54.8	48 % Increase over the Prior 6 months — 171 Failures to Appear (FTA) 4/30/2013-9/30/2013 (in Green shaded)

* = Partial Year Statistics

**Spring Hill Municipal Court
2013-2014 Fiscal Year**

<u>Month</u>	<u>No. of Cases/Citations</u>	<u>No. of Offenses Heard</u>
Jul-13	152	204
Aug-13	109	134
Sep-13	129	178
Oct-13	241	318
Nov-13	230	342
Dec-13	129	206
Jan-14	180	247
Feb-14	200	301
Mar-14	<u>203</u>	<u>307</u>
YTD Total:	1573	2237
Monthly Average:	175	248