

ORDINANCE NO. 20-14

**AN ORDINANCE TO ADOPT THE VIOLATION-PENALTY PROVISION OF
CHAPTER 9 – CIVIL EMERGENCIES OF THE TENNESSEE CODE ANNOTATED
LOCATED AT §38-9-105**

WHEREAS, Chapter 9 – Civil Emergencies of the Tennessee Code Annotated located at 38-9-101, *et seq.* defines certain terms, including, but not limited to, “civil emergencies”; and

WHEREAS, §38-9-101, *et seq.* grants the mayors of cities organized pursuant to mayoral-aldermanic form of local government, such as the City of Spring Hill, the authority to proclaim civil emergencies, order a general curfew and issue restrictive orders during a civil emergency, as defined, in order to protect the public health, safety and welfare of citizens; and

WHEREAS, Tenn. Code Ann. §38-9-105 – Violations–Penalty states as follows: “municipalities may provide by ordinance that any person violating the provisions of orders issued by the chief administrative officer [mayor] pursuant to this authorization during a proclaimed civil emergency commits a Class C misdemeanor”; and

WHEREAS, it is in the best interest of the City of Spring Hill and its citizens to adopt the Violations-Penalty provision of Chapter 9 found at Tenn. Code Ann. §38-9-105.

NOW, THEREFORE, BE IT ORDAINED, that the Violation-Penalty provision of Chapter 9 found at Tenn. Code Ann. §38-9-105 is hereby adopted and codified in the City Code of Ordinances at Title 11, Chapter 8, §11-806.

NOW THEREFORE BE IT FUTHER ORDAINED, that all ordinances or partial ordinances in conflict herewith be, and the same hereby are, repealed or modified as the case may be.

BE IT FURTHER ENACTED, that this Ordinance shall take effect from and after its final passage by the Board of Mayor and Aldermen.

Passed and adopted by the Board of Mayor and Aldermen of the City of Spring Hill, Tennessee on 21st day of September, 2020.

Rick Graham, Mayor

ATTEST:

April Goad, City Recorder

LEGAL FORM APPROVED:

Patrick M. Carter, City Attorney

Passed on First Reading: August 17, 2020

Passed on Second Reading: September 21, 2020



REQUEST: Ordinance 20-14 Adopt Optional Violation Penalty Provision

SUBMITTED BY: Patrick M. Carter, City Attorney

DATE: July 28, 2020

RE: Proposed Ordinance adopting optional violation-penalty provision located at Tenn. Code Ann. §38-9-105

ATTACHMENTS: Ordinance 20-14 and supporting documentation

PURPOSE:

The purpose is to consider and adopt the optional violation-penalty provision of Chapter 9 – Civil Emergencies of Tenn. Code Ann. §38-9-105 to give the City flexibility in dealing with future civil emergencies.

BACKGROUND:

In March and April of 2020, I, along with other city attorneys across the state of Tennessee, began to advise our municipal clients regarding municipal response to the COVID-19 pandemic. In doing so, I discovered that the City of Spring Hill has not adopted the optional violation-penalty provision located at Tenn. Code Ann. §38-9-105 that gives municipalities some enforcement powers in the event the mayor has legal cause to declare a civil emergency pursuant to §38-9-101, et seq. The enforcement powers consist of issuing a general curfew (§38-9-103) and certain restrictive orders (§38-9-104) with the failure to abide by same to be classified as a Class C misdemeanor (punishable up to 30 days in jail and a fine up to \$50). Because the definition of “civil emergency” at §38-9-101, et seq. does not, at least on its face, encompass pandemics, it is not clear at this point whether or not this section of the Code would be useful to the City with regards to a pandemic, however, it is easy to imagine that the enforcement provision afforded might be useful in the event of other types of expressly covered civil emergencies.

RECOMMENDATION:

Pass on two readings Ordinance 20-14 to adopt the violation-penalty provision of Chapter 9 – Civil Emergencies of the Tenn. Code Ann. located at §38-9-105. If adopted, the Ordinance will be codified in the City Code of Ordinances at Title 11, Chapter 8, §11-806.