

(First Published in the Clarion on the _____ day of _____, 2021.)

THE CITY OF COLWICH, KANSAS

ORDINANCE NO. 739

AN ORDINANCE REGULATING PUBLIC OFFENSES WITHIN THE CORPORATE LIMITS OF THE CITY OF COLWICH, KANSAS; INCORPORATING BY REFERENCE THE UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES, 37TH EDITION OF 2021, WITH CERTAIN OMISSIONS, CHANGES, AND ADDITIONS; PRESCRIBING ADDITIONAL REGULATIONS; PROVIDING CERTAIN PENALTIES AND REPEALING CONFLICTING ORDINANCES.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF COLWICH, KANSAS:

Section 1. Chapter XI Article 1 Section 11-101 of the Colwich City Code is hereby amended to read as follows:

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 Colwich, Kansas, that certain code known as the Uniform Public Offense Code for Kansas Cities, 37th Edition of 2021, 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. One official copy of said Uniform Public Offense Code shall be or stamped "Official Copy as Adopted by Ordinance No. _____," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the city clerk to be open to inspection and available to the public at reasonable hours.

Section 2. Chapter XI Article 1 Section 11-102 of the Colwich City Code is hereby amended to read as follows:

CITATION; AMENDMENTS TO UNIFORM PUBLIC OFFENSE CODE.

(a) The Uniform Public Offense Code as incorporated by reference in section 11-101 of this article shall be properly cited by reference to the adopting Ordinance of this Code and the Section numbers as set forth within the Uniform Public Offense Code

(b) The Uniform Public Offense Code is hereby amended to include the following sections, which shall be properly cited by reference to the adopting Ordinance of this Code and the Section numbers as set forth below, such section numbers conforming to the section numbering utilized in the Uniform Public Offense Code.

Section 7.17: Article 7 of said Uniform Public Offense Code is hereby supplemented, by adding the following section:

Sec. 7.17. Resisting Arrest.

(a) Resisting Arrest is the use of force, or threat of force, to resist, obstruct or interfere with the arrest of a person or persons by a law enforcement officer or by a private person summoned and directed by a law enforcement officer to make the arrest, even if the person being arrested or other person resisting, obstructing or interfering with the arrest believes the arrest is unlawful.

(b) Resisting Arrest is a class A violation.

Section 7.18: Article 7 of said Uniform Public Offense Code is hereby supplemented, by adding the following section:

Sec. 7.18. Failure to Appear.

(a) Failure to Appear is failing to appear in Municipal Court to answer charges involving the violation of any Ordinance of the City which constitutes a misdemeanor, traffic offense, or code infraction, at the designated time, after being released from custody or after having received a complaint or notice to appear.

(b) Failure to Appear is an unclassified violation and shall be punishable by a fine of no more than 30 days in custody and not more than \$500.00.

Section 9.14: Article 9 of said Uniform Public Offense Code is hereby supplemented, by adding the following section:

Sec. 9.14. Urinating in Public.

(a) Urinating in Public is urinating upon any highway, street, alley, sidewalk, park, upon the premises of any public place or building, or upon any public or private property in open view of any person, when the same has not been designed or designated as a rest room.

(b) Urinating in Public is a class C violation.

Section 9.15: Article 9 of said Uniform Public Offense Code is hereby supplemented, by adding the following section:

9.15. Window Peeping.

(a) Window Peeping is unlawfully entering upon the property occupied by another for the purpose of looking or peeping into any window, door, skylight or other opening in a house, room or building for the purpose of observing the occupant or occupants of said house, room or building.

(b) Window Peeping is a class C violation.

Section 9.16: Article 9 of said Uniform Public Offense Code is hereby supplemented, by adding the following section:

9.16. Public Indecency.

(a) It shall be unlawful for any person to knowingly or intentionally, in a public place:

- (1) appear in a state of nudity; or
- (2) fondle the genitals of himself/herself or another person.

(b) For the purpose of this section, “Nudity” means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, the showing of the human female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

(c) Public Indecency is a class A violation.

Section 9.17: Article 9 of said Uniform Public Offense Code is hereby supplemented, by adding the following section:

9.17. Peddling and Door to Door Sales Without a Permit.

(a) Peddling and Door to Door Sales is the act of any individual(s) to conduct business with residents of the City through peddling, and/or selling merchandise, or soliciting business, by traveling to the door of residences, or otherwise approaching residents for purposes of soliciting sales, without first obtaining a permit.

(b) Peddling and Door to Door Sales Without a Permit is a class C violation.

Section 10.29: Article 10 of said Uniform Public Offense Code is hereby supplemented, by adding the following section:

10.29. Possession or Consumption of Cereal Malt Beverages or Alcoholic Liquor in Public.

(a) Possession of a cereal malt beverage or alcoholic liquor is to have in one's possession or on one's person any open container containing such beverage or any beverage not in its original packaging in a public place where such beverages are not permitted, as hereinafter set forth, except in their original sealed packaging.

(b) Consumption of a cereal malt beverage or alcoholic liquor is to consume any such beverage in a public place where such beverages are not permitted to be consumed, as hereinafter set forth, or are unlicensed for such purposes.

(c) For purposes of this section "a public place where such beverages are not permitted to be possessed or consumed" include the following:

(1) In, or upon any highway, road, street, alley, sidewalk, public easement or automobile parking lot, whether such lot be privately or publicly owned, or in or upon any vehicle in, on or upon any of such places when such vehicle does not appear to have been operating;

(2) In, on or upon the premises of a cereal malt beverage licensee but being outside of the building or outside of the serving area of such licensee; or

(3) In, on or upon the premises of any lot or tract of ground which is zoned service business within the City.

(d) In no event shall an individual be found to be in violation of this section when the Governing Body of the City has approved a Special Event License for the area in which the individual was in possession of, or consuming, such beverage.

(e) Possession or Consumption of Cereal Malt Beverages or Alcoholic Liquor in Public is a class C violation.

Section 10.30: Article 10 of said Uniform Public Offense Code is hereby supplemented, by adding the following section:

10.30. Public Intoxication.

(a) Public Intoxication is being under the influence of intoxicating substances, including illegal drugs, alcoholic liquor, or cereal malt

beverage, to the extent that such person is a danger to themselves or others, or the property of themselves or others.

(b) Public Intoxication is a class B violation.

Section 10.31: Article 10 of said Uniform Public Offense Code is hereby supplemented, by adding the following section:

10.31. Blocking Roadways with Locomotives.

(a) Blocking Roadways with Locomotives is the act of any firm, corporation, partnership or individual to permit any trains, engines, or cars to stand upon any street, thoroughfare or alley with the City for a period of time exceeding ten (10) consecutive minutes, while failing to leave an opening in the travel portion of the street wide enough for all vehicles, including emergency vehicles, to pass through. Failure to leave thirty (30) feet width of passage area shall be prima facie evidence of failure to leave an adequate area of passage for vehicles.

(b) Blocking Roadways with Locomotives is a class C violation.

Section 10.32: Article 10 of said Uniform Public Offense Code is hereby supplemented, by adding the following section:

10.32. Curfew for Certain Minor Children.

(a) Duty of Minor. It shall be unlawful for any minor under the age of eighteen (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 and buildings, places of amusement or entertainment, eating places, vacant lots or other place unsupervised by an adult having the lawful authority to be at such place during the following periods of time:

(1) For minors age fifteen (15) and under, between the hours of 11:00 p.m. and 6:00 a.m. of the following day, except Friday and Saturday evenings when the hours shall be 12:00 midnight to 6:00 a.m. of the following day;

(2) For minors age sixteen (16) and seventeen (17), between the hours of 12:00 midnight on any day and 6:00 a.m. of the following day, except on Friday and Saturday evenings when the hours shall be 1:00 a.m. and 6:00 a.m. the following day.

(3) The provisions of this section shall not apply in the following instances:

- (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 upon an emergency errand directed by his or her parent or guardian or other adult person having the lawful care and custody of such minor;
- (C) When the minor is returning home by the most direct route from a school activity, recreational activity or dance;
- (D) 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 right of religion; or
- (E) When the minor is in interstate travel through the city.

(b) Responsibility of Parent. Except in circumstances set out in section (a) above, it shall be unlawful for the parent, guardian or other adult person having care and custody of a minor under the age of eighteen (18) years to permit such minor to loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places or public buildings, places of amusement or entertainment, eating places, vacant lots or other place unsupervised by an adult having the lawful authority to be at such place during the following periods of time:

- (1) For minors age fifteen (15) years of age and under, between the hours of 11:00 p.m. on any day and 6:00 a.m. of the following day, except on Friday and Saturday evenings, when the hours shall be 12:00 a.m. to 6:00 a.m. of the following day; and
- (2) For minors age sixteen (16) and seventeen (17), between the hours of 12:00 a.m. on any day and 6:00 a.m. of the following day, except on Friday and Saturday evenings when the hours shall be 1:00 a.m. to 6:00 a.m. of the following day.

(c) Penalty for Minor. Any police officer finding a minor under the age of eighteen (18) years violating the provisions of this chapter shall warn the child to desist from such violations and immediately return home and may cause written notice to be served upon the parent, guardian or person in charge of said child, setting forth the manner in which the provisions of this section 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.

(d) Penalty for Parent, Guardian or Person Having the Care and Custody of a Child. Any parent, guardian or person having the care and

custody of a child who shall permit such child to violate the provisions of this section after receiving written notice that such child has previously violated such provisions may be subject to a minimum fine of \$50.00 and a maximum fine of \$500.00, plus costs, for a second or subsequent such offense, with a request to the appropriate court that consideration be given to community service for the offending juvenile as an alternative to any set fine.

(e) Violation of this section is a Class C misdemeanor.

Section 3. Chapter XI Article 1 Section 11-103 of the Colwich City Code is hereby amended to read as follows:

CLASSES OF VIOLATIONS AND CONFINEMENT. All penalties for violations of the Uniform Public Offense Code, including those amendments set forth within Section 11-102 above, shall conform to the classification and penalty provisions set forth within Article 12 of the Uniform Public Offense Code as incorporated in Chapter XI Article 1 Section 11-101 of the Colwich City Code.

Section 4. REPEAL. All previous ordinances incorporating by reference a previous edition of the Uniform Public Offense Code for Kansas Cities, with certain provisions being omitted, deleted, modified, or changed, into Chapter XI Article 1 of the Colwich City Code, are hereby repealed and replaced by this ordinance.

Section 5. This Ordinance shall take effect and be in force from and after its publication in the official city newspaper.

Passed by the City Council this 20th day of September, 2021.

Approved by the Mayor this 20th day of September, 2021.

MAYOR, ANGELA BANZ

ATTEST:

CITY CLERK, STEPHANIE GUY

SEAL