

ORDINANCE NUMBER 18-10974

AN ORDINANCE AMENDING CHAPTER 25, SECTION 25-1 OF THE UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES, 34th EDITION (2018); ADDING LOCAL AMENDMENTS TO THE 2018 UNIFORM PUBLIC OFFENSE CODE; REINSTATING ARTICLE XI; AND REPEALING EXISTING SECTIONS 25-1, 25-98, 25-201, 25-202, 25-203, AND 25-204.

BE IT ORDAINED by the Governing Body of the City of Salina, Kansas:

Section 1. ADOPTION OF UNIFORM PUBLIC OFFENSE CODE.

25-1 INCORPORATING UNIFORM PUBLIC OFFENSE CODE.

- (a) **Incorporation by Reference.** The *Uniform Public Offense Code*, 34th Edition (2018), published by the League of Kansas Municipalities, Topeka, Kansas, (the “*Uniform Public Offense Code*”) is adopted and incorporated by reference except such sections as are hereinafter omitted or amended. At least one copy of the *Uniform Public Offense Code* shall be marked or stamped “Official Copy as Adopted by Ordinance No. 18-10974,” with all sections thereof intended to be omitted or amended clearly marked to show any such omission or amendment 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 all reasonable business hours.
- (b) **Omissions.** Sections 6.14, 6.15, 6.16, 6.17, 10.13, 10.18, 10.24, 10.25, 10.26, 11.3, and 11.11 of the *Uniform Public Offense Code* are hereby omitted.
- (c) **Amendments.** Section 9.1 of the *Uniform Public Offense Code* is hereby amended to read as follows:

Sec. 9.1. Disorderly Conduct. Disorderly Conduct is one or more of the following acts that the person knows or should know will alarm, anger or disturb others or provoke an assault or other breach of the peace:

- (a) Brawling or fighting;
- (b) Disturbing an assembly, meeting or procession, not unlawful in its character;
- (c) Using fighting words or engaging in noisy conduct tending reasonably to arouse alarm, anger or resentment in others; or
- (d) Willfully throwing, depositing or placing any substance upon any property in which another has an interest without the consent of such other person, when such action does not constitute criminal damage to property.

Disorderly conduct is a Class C violation.

- (d) **Amendments.** Section 9.9.1 of the *Uniform Public Offense Code* is hereby amended to read as follows:

Sec. 9.9.1. Unlawful Possession of Marijuana and Tetrahydrocannabinols.

- (a) Except as authorized by the Uniform Controlled Substance Act, K.S.A. 65-4101 *et. seq.*, and amendments thereto, it shall be unlawful for any person to possess or have under such person's control marijuana, as designated in K.S.A. 65-4105(d), and amendments thereto, or tetrahydrocannabinols, as designated in K.S.A. 65-4105(h), and amendments thereto.
 - (b) Penalty.
 - (1) Violations of subsection (a) is a Class B violation for a first offense and a class A violation if the person has a prior conviction under K.S.A. 65-4162, prior to its repeal, under substantially similar offense from another jurisdiction, or under any city ordinance or county resolution for a substantially similar offense.
 - (c) In addition to or in lieu of any other sentence authorized by ordinance, whenever a person is convicted of having committed unlawful possession of marijuana or tetrahydrocannabinols under this section, while under twenty-one (21) years of age, the court shall order such person to submit to and complete an alcohol and drug evaluation by a community-based alcohol and drug safety action program certified pursuant to K.S.A. 8-1008, and amendments thereto, and to pay a fee not to exceed the fee established by that statute for such evaluation. If the court finds that the person is indigent, the fee may be waived.
- (e) **Amendments.** Section 10.5 of the *Uniform Public Offense Code* is hereby amended to read as follows:

Sec. 10.5. Unlawful Discharge of a Firearm.

- (a) Unlawful discharge of a firearm is the reckless discharge of a firearm within or into the corporate limits of any city.
- (b) This section shall not apply to the discharge of any firearm within or into the corporate limits of any city if:
 - (1) The firearm is discharged in the lawful defense of one's person, another person or one's property;
 - (2) The firearm is discharged at a private or public shooting range;
 - (3) The firearm is discharged to lawfully take wildlife unless prohibited by the department of wildlife, parks and tourism or the governing body of the city;
 - (4) 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;
 - (5) The firearm is discharged by special permit of the chief of police or by the sheriff when the city has no police department;
 - (6) The firearm is discharged using blanks;
 - (7) The firearm is discharged in lawful self-defense or defense of another person against an animal attack (K.S.A. Supp. 26-6308a);
 - (8) The firearm is discharged by a legitimate gunsmith in pursuit of his or her trade;

- (9) The firearm is discharged by the Executive Director of the Salina Airport Authority, or his designee, on Airport property for wildlife hazard reduction purposes pursuant to the Salina Municipal Airport Rules and Regulations.

Unlawful discharge of firearms is a Class B violation.

- (f) **Amendments.** Section 10.6 of the *Uniform Public Offense Code* is hereby amended to read as follows:

Sec. 10.6. Air Gun, Air Rifle, Bow and Arrow, Slingshot, BB Gun or Paintball Gun. The unlawful operation of an air gun, air rifle, bow and arrow, slingshot, BB gun or paint ball gun is the shooting, discharging or operating of any air gun, air rifle, bow and arrow, slingshot, BB gun or paint ball gun, within the city, except:

- (a) Within the confines of a building or other structure from which the projectiles cannot escape; or
- (b) Instructional programs relating to shooting, discharging, or operating an air gun, air rifle, paintball gun, BB gun, bow and arrow, or slingshot, administered under the supervision of either (1) the city, by permit, upon city park property or (2) an accredited educational institution upon appropriately zoned property owned by the educational institution.

Unlawful operation of an air gun, air rifle, bow and arrow, slingshot, BB gun or paint ball gun is a Class C violation.

Section 2. Chapter 25, Article XI of the Salina Code is amended by reinstating Sections 25-181 and 25-182, to read as follows:

Sec. 25-181. 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 (1) 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 (6) 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 (1) 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 25-182 of this article, instead of or in addition to confinement, as provided in this section.

Sec. 25-182. 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 two thousand, five hundred dollars (\$2,500.00).
 - (2) Class B violation, a sum not exceeding one thousand dollars (\$1,000.00).
 - (3) Class C violation, a sum not exceeding five hundred dollars (\$500.00).
 - (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.

Section 2. Repealer. Existing Sections 25-1, 25-98, 25-201, 25-202, 25-203, and 25-204 are hereby repealed.

Section 3. Effective. This ordinance shall be in full force and effect from and after its adoption and publication by the following summary once in the official city newspaper.

Ordinance No. 18-10974 Summary

On October 1, 2018, the City of Salina, Kansas, passed Ordinance No. 18-10974. The ordinance amends Chapter 25, Section 25-1 of the Salina Code by adopting the *Uniform Public Offense Code*, 34th Edition (2018) prepared and published in book form by the League of Kansas Municipalities; providing certain local amendments to Sections 9.1, 9.9.1, 10.5, and 10.6; reinstating Article XI; and repealing existing sections 25-1, 25-98, 25-201, 25-202, 25-303, and 25-204. A complete copy of the ordinance is available at www.salina-ks.gov or in the office of the city clerk, 300 W. Ash Street, free of charge. This summary is certified by the City Attorney.

Introduced: October 1, 2018

Passed: October 1, 2018

Karl F. Ryan, Mayor

[SEAL]
ATTEST:

Shandi Wicks, CMC, City Clerk

The publication summary set forth above is certified this ____ October, 2018.

Greg A. Bengtson, City Attorney