

## ORDINANCE NO. 3538

AN ORDINANCE AMENDING THE EDMOND MUNICIPAL CODE TO ADD NEW SECTION 8.08.370 TRUANCY, TRUANT CHILDREN, NEGLECT OR REFUSAL TO COMPEL CHILD TO ATTEND SCHOOL, DEFENSES, TEMPORARY DETENTION AND PROVIDING FOR PENALTIES TO ADDRESS TRUANCY; AND PROVIDING FOR REPEALER AND SEVERABILITY.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF EDMOND, OKLAHOMA:

SECTION 1. The Edmond Municipal Code is hereby amended to add new Section 08.08.370 to read as follows:

08.08.370 Truancy.

A. Truant Children

1. It shall be unlawful for any child subject to compulsory school attendance by law and who is within the corporate City limits of Edmond, who is over the age of 12 years and under the age of 18 years, and who has not finished four years of high school work, to neglect or refuse to attend and comply with the rules of some public, private or other school, or receive an education by other means for the full term the schools of the district are in session; and

2. Any child subject to compulsory school attendance who is absent without lawful excuse is truant and guilty of an offense pursuant to this section.

B. Neglect or Refusal to Compel Child to Attend School.

1. It shall be unlawful for a parent, guardian, or other person having custody of a child who is over the age of five (5) years, and under the age of eighteen (18) years, to neglect or refuse to cause or compel such child to attend and comply with the rules of some public, private or other school, unless other means of education are provided for the full term the schools of the district are in session or the child is excused as provided in this section. One-half (1/2) day of kindergarten shall be required of all children five (5) years of age or older unless the child is excused from kindergarten attendance as

provided in this section. A child who is five (5) years of age shall be excused from kindergarten attendance until the next school year after the child is six (6) years of age if a parent, guardian, or other person having custody of the child notifies the superintendent of the district where the child is a resident by certified mail prior to enrollment in kindergarten, or at any time during the first school year that the child is required to attend kindergarten pursuant to this section, of election to withhold the child from kindergarten until the next school year after the child is six (6) years of age.

2. Any parent, guardian, or other person having custody of a child who is over age of five (5) years, and under the age of eighteen (18) years, who neglects or refuses to compel child to attend school without lawful excuse is guilty of an offense pursuant to this section.

C. Defenses.

It is a defense under this section that the child:

1. Is prevented from attending school by reason of mental or physical disability, to be determined by the board of education of the district upon a certificate of the school physician or public health physician, or, if no such physician is available, a duly licensed and practicing physician;
2. Is excused from attendance at school, due to an emergency, by the principal teacher of the school in which such child is enrolled, at the request of the parent, guardian, custodian or other person having control of such child;
3. Is excused from attending school for the purpose of observing religious holy days if before the absence, the parent, guardian, or person having custody or control of the student submits a written request for the excused absence;
4. Is excused from attending school for the purpose of participating in a military funeral honors ceremony upon approval of the school principal;
5. Has attained his or her sixteenth birthday and is excused from attending school by written, joint agreement between:

a. The school administrator of the school district where the child attends school; and

b. The parent, guardian or custodian of the child.

Provided, further, that no child shall be excused from attending school by such joint agreement between a school administrator and the parent, guardian or custodian of the child unless and until it has been determined that such action is for the best interest of the child and/or the community, and that said child shall thereafter be under the supervision of the parent, guardian or custodian until the child has reached the age of 18 years.

D. Temporary detention of truant children.

1. An attendance officer, any school administrator, or designee of the school administrator who is employed by the school, or any peace officer may, except for children receiving an education by other means as allowed by law, temporarily detain and assume temporary custody of any child subject to compulsory full-time education, during hours in which school is actually in session, who is found away from the home of such child and within the school district that they are truant from and who is absent from school without lawful excuse and there is prior approval from the school district for temporary detention and custody pursuant to this section.

2. Any person temporarily detaining and assuming temporary custody of a child pursuant to this section shall immediately deliver the child either to the parent, guardian, or other person having control or custody of the child, or to the school from which the child is absent without valid excuse, or to a nonsecure youth service or community center servicing the school district, or to a community intervention center, as defined by State law.

3. The temporary custody or detention provided by this section shall be utilized as a means of reforming and returning the truant students to school and shall not be used as a pretext for investigating criminal matters. The temporary custody or detention herein provided is a limited type of detention and is not justified unless there are specific facts causing an attendance officer or other authorized person to reasonably suspect that a truancy violation is occurring and that the person the officer intends to detain is a truant.

E. Penalties.

1. Each day the child remains out of school shall constitute a separate offense.

2. At the trial of any person charged with violating the provisions of this section, the attendance records of the child may be presented in court by any authorized employee and/or duly authorized attendance officer of the school.

3. Any child convicted of violating the provisions of this division shall be guilty of an offense and shall be punished as follows:

a. For the first conviction, a fine and costs not to exceed \$50.00;

b. For the second conviction, a fine and costs not to exceed \$100.00; and

c. For a third or subsequent conviction, a fine and costs not to exceed \$150.00.

4. Any parent, guardian or other person having custody of a child who violates any of the provisions of this section shall:

a. For the first conviction, a fine and costs not to exceed \$100.00;

b. For the second or subsequent conviction, a fine and costs not to exceed \$150.00.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of any such conflict.

SECTION 3. SEVERABILITY. If any section, sub-section, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

PASSED AND APPROVED the 25<sup>th</sup> day of April, 2016.

Charles Lamb  
MAYOR

Attest:

Kory Atcuson  
City Clerk

APPROVED as to form and legality this the 25<sup>th</sup> day of April,  
2016.

Steve Murdock  
CITY ATTORNEY