

ORDINANCE NO. 3672

AN ORDINANCE OF THE CITY OF BROKEN ARROW AMENDING CHAPTER 16 OF THE CODE OF ORDINANCES, CITY OF BROKEN ARROW, OKLAHOMA, “OFFENSES—MISCELLANEOUS,” BY ADDING A NEW SECTION 16-33 ENTITLED “FACE COVERING AND SOCIAL DISTANCING DURING THE COVID-19 PANDEMIC CIVIL EMERGENCY”; PROVIDING DEFINITIONS; MANDATING THE USE OF FACE COVERINGS WITH CERTAIN EXCEPTIONS; PROVIDING AN EXPIRATION DATE; PROVIDING FOR SEVERABILITY; REPEALING CONFLICTING ORDINANCES; AND DECLARING AN EMERGENCY

BE IT ORDAINED BY THE CITY OF BROKEN ARROW:

Section 1. Chapter 16 of the Code of Ordinances, City of Broken Arrow, Oklahoma, be amended by the addition of new Section 16-33, to read as follows:

Section 16-33 – Face Covering and Social Distancing During COVID-19 Pandemic Civil Emergency

A. Findings of Fact.

WHEREAS, The City of Broken Arrow is charged with the solemn responsibility of protecting the public peace, health, order, morals, and safety, and promoting the general welfare of the City of Broken Arrow and its inhabitants;

WHEREAS, on March 15, 2020, the Governor of the State of Oklahoma declared an emergency caused by the impending threat of COVID-19 to the people of this State and the public’s peace, health, and safety which remains in effect today; and

WHEREAS, as of the 13th day of January, 2021, there were 6,125 active cases (55,721 total cases diagnosed) of COVID-19 in Tulsa County and 475 COVID-19 deaths in Tulsa County; and

WHEREAS, as of the 13th day of January, 2021, there were 447 COVID-19 positive patients in the hospital in Tulsa County, 115 of those persons in the Intensive Care Unit (ICU); and

WHEREAS, as of the 13th day of January, 2021, there were 91 COVID-19 deaths in the City of Broken Arrow and 11,940 total COVID-19 cases diagnosed in the City of Broken Arrow; and

WHEREAS, the Tulsa Health Department designates the City of Broken Arrow as an “Extreme Severe Risk” area based on active new cases per 1,000 inhabitants; and

WHEREAS, as of the 13th day of January, 2021, the State of Oklahoma is not meeting the White House Opening Up America Again gating criteria for downward trajectory of cases with a downward trajectory of documented cases within a 14-day period, nor is Tulsa County meeting the 14-day trend of such downward trajectory.

WHEREAS, the Mayor of the City of Broken Arrow issued multiple executive orders in response to COVID-19 using the least restrictive means available to protect public health, safety, and welfare in the City of Broken Arrow and ensure the effective response to this disaster; and

WHEREAS, as the City of Broken Arrow re-opened in the midst of COVID-19, increase spread is to be expected, and the key to controlling the spread and keeping the City of Broken Arrow safe

is for all people to consistently follow good hygiene and social distancing practices; and

WHEREAS, The United States Centers for Disease Control and Prevention (CDC) recommends that people wear cloth face coverings in public settings, particularly when other social distancing measures are difficult to maintain, and when around people who do not live in the same household and;

WHEREAS, the Executive Director of the Tulsa Health Department, and other public health officials consistently encourage people to use Face Coverings, and health authorities have repeatedly emphasized that wearing Face Coverings is one of the most important and effective tools for reducing the spread of COVID-19; and

WHEREAS, given the current status of COVID-19 in the City of Broken Arrow, requiring the use of face coverings is a targeted response that can combat the threat of public health using the least restrictive means, and if people follow this requirement, more extreme measures may be avoided; and

WHEREAS, wearing a face covering is important not only to protect oneself, but also to avoid unknowingly harming fellow city of broken Arrow residence and others with whom they may come into contact, especially given the many people who go into public may have COVID 19 without knowing it because they have no symptoms; and

WHEREAS, due to recent substantial increases in COVID 19 positive cases, and increases in a COVID 19 positivity rate and hospitalizations resulting from COVID 19, further measures are needed to achieve the least restrictive means for reducing the rate growing spread of COVID 19, and to avoid a need for more extreme measures; and

WHEREAS, it is deemed necessary for the protection of the public health and safety of the City of Broken Arrow and its inhabitants to prevent the introduction and spread of the contagious disease COVID 19 Preserve the peace, and to provide civil defense and emergency functions; and

THEREFORE, pursuant to title 11, section 22-120(A) of the Oklahoma Statutes, the City of Broken Arrow enacts this ordinance mandating that:

B. Definitions.

“Face Covering” means a covering that fully covers a person’s nose and mouth. The term “Face Covering” includes, but is not limited to, cloth face masks, towels, scarves, and bandanas as recommended by the CDC or OSDH, an N95, KN95, or other mask that would be appropriate for a healthcare setting, or a surgical mask. The Face Covering should fit snugly on a person’s face but allow the person to breathe easily and worn consistent with the guidance provided by the CDC or OSDH.

“Social” or “Physical Distancing” means maintaining six (6) feet of distance between persons who are not part of the same household while in a Public Accommodation, Educational Institution, or Public Setting.

“Place of Public Accommodation” means all places offering items, goods or services for purchase or rent, including without limitation retail businesses, personal services and spas, entertainment venues, food service facilities, restaurants and bars, hotels, motels and travel related services, professional offices and services, banks and financial services, repair facilities, and motor vehicle

dealerships.

“Public Service Area” means areas of a Place of Public Accommodation or an Educational Institution wherein employees interact with the public in the normal course of business.

“Public Setting” means any public place where persons congregate which is not a Place of Public Accommodation including without limitation offices, workplaces, houses of worship and ancillary facilities, childcare facilities, hospitals and health facilities, gymnasiums and physical fitness facilities, adult and youth sports facilities, communal outdoor spaces such as sidewalks, trails, and parks, and food trucks and other outdoor retail entities.

“Educational Institution” means any building or facility used for academic or athletic purposes on public school campuses, and any private school or preschool. This term excludes the playing surface of any athletic facility during organized activities and practices.

C. Face Coverings Mandate Under Certain Circumstance.

Except as otherwise provided herein, persons located within Public Service Areas of Places of Public Accommodation or an Educational Institution are required to wear Face Coverings at all times when present therein. Except as otherwise provided herein, persons in any Public Setting wherein Social or Physical Distancing cannot be maintained are required to wear face coverings.

The following persons, locations and activities are exempt from this requirement:

1. Persons who fall into the U.S. Centers for Disease Control and Prevention’s guidance for those who should not wear Face Coverings due to a medical or mental health condition or developmental disability;
2. Children under 10 years of age;
3. Restaurant patrons while they are eating or drinking;
4. Persons exercising in communal outdoor spaces, or persons walking or exercising with other persons from the same household in communal outdoor spaces, as long as Physical Distancing is maintained. Persons congregating in communal outdoor spaces with other persons not in their same household are required to wear face coverings when Physical Distancing is not maintained;
5. Settings where it is not practical or feasible to wear a Face Covering, such as dental services, medical treatments, while swimming, or when engaged in athletic team activities where the level of exertion makes wearing a Face Covering impractical;
6. Occupants in a personal vehicle, personal office, or similar private space while other persons outside of the person’s household are not present;
7. Private homes; and
8. Offices and workplaces that are not Public Service Areas where Physical Distancing between employees and other occupants can be consistently maintained during hours of operation.

D. Penalty of Violation of Subsection C.

There is no specific penalty for violation of this Ordinance. However, persons refusing to wear a Face Covering into a Place of Public Accommodation, Educational Institution, or Public Setting,

as defined herein, shall be subject to prosecution under criminal trespass, disturbing the peace, disorderly conduct, or similar offenses as circumstances warrant.

E. Expiration of Ordinance.

This Ordinance shall expire the earlier of April 30, 2021, or by repeal, modification, or extension by the City Council through a subsequent ordinance.

Section 2. Severability Clause

If any section, sentence, clause, or phrase of this ordinance or any part thereof is for any reason found to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance or any part thereof.

Section 3. Repeal of Conflicting Ordinance

That all ordinances or parts of ordinances in conflict herewith be and the same are now expressly repealed.

Section 4. Emergency Clause

That an emergency is now declared to exist for the preservation of the public peace, health, and safety, by reason whereof this Ordinance shall take effect immediately from and after its adoption and required approvals.

This Ordinance is approved and passed in open meeting by the City Council of the City of Broken Arrow on this _____ day of January 2021.

Mayor

Emergency Clause approved separately this ___ day of January, 2021.

Mayor

ATTEST:

(SEAL) City Clerk

APPROVED:

City Attorney