

ORDINANCE NO. 3893

AN ORDINANCE AMENDING CHAPTER 16, OFFENSES – MISCELLANEOUS, ARTICLE III, OFFENSES AGAINST PROPERTY, OF THE BROKEN ARROW MUNICIPAL CODE, TO INCLUDE THE FOLLOWING SECTIONS: SECTION 16-69, DEFINITIONS; SECTION 16-70, ENCAMPMENT IN A PUBLIC PLACE OR ON PRIVATE PROPERTY PROHIBITED; SECTION 16-71, DEFENSES TO UNLAWFUL ENCAMPMENT IN A PUBLIC PLACE OR ON PRIVATE PROPERTY; SECTION 16-72, PENALTY; SECTION 16-73, PROCEDURE FOR ENFORCEMENT OF THIS ARTICLE; AND SECTION 16-74, PROTECTION OF CONSTITUTIONAL RIGHTS; AND SECTIONS 16-75 - 16-80; RESERVED; AND DECLARING AN EMERGENCY

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BROKEN ARROW:

SECTION I. That Chapter 16 of the Broken Arrow Municipal Code is hereby amended to read as follows:

Sec. 16-69. Definitions.

The following words, terms, and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

- (a) *Durable medical equipment* means equipment customarily used for medical purposes, able to withstand repeated use, and generally not useful to a person in the absence of illness or injury. Non-exclusive examples include wheelchairs, canes, crutches, and portable oxygen tanks.
- (b) *Encampment* or *encamp* means any one or more of the following conditions occurring in an outdoor place:
 - (1) The use of fabric, metal, cardboard, or other materials as a tent or other temporary structure for living accommodation purposes or human habitation; or
 - (2) The use of a heating device; or
 - (3) The accumulation of personal property (other than durable medical equipment) that would not fit in a container three feet high, three feet wide, and three feet deep.
- (c) *Heating device* means a fire, stove, grill, heater, open flame, or other container or device capable of generating heat.
- (d) *Public place* means an outdoor area located within the City of Broken Arrow that is owned, managed, or controlled by the City, a public school district, Tulsa County, the State of Oklahoma, or the Federal government, to which the public has access, including public rights-of-way, public parks, public streets, public sidewalks, public hiking trails, public biking trails, public transit facilities, public bridges, public underpasses, and public parking lots.

- (e) *Verifiable permission* means a physical or electronic written invitation or license addressed to the person or entity present upon a public place or private property.

Sec. 16-70. Encampment in a public place or on private property prohibited.

- (a) Encampment in a public place located within the City of Broken Arrow without the verifiable permission of the City Council, the City Manager, or their designee, or of an authorized officer of the specific public school district, Tulsa County, the State of Oklahoma, or the Federal government, as applicable based on which public entity owns, manages, or controls the public place, is prohibited and unlawful. The prohibition stated in this subsection (a) shall not apply to an encampment located in a public place if the encampment has been authorized by statute, ordinance, rule, regulation, permit, resolution, executive order, or any other official action.
- (b) Encampment on private property without the verifiable permission of the record owner or other person in lawful possession of such property is prohibited and unlawful.

Sec. 16-71. Defenses to trespass and unlawful encampment in a public place or on private property.

- (a) It is an affirmative defense to prosecution for a violation of Sections 16-62 or 16-70 of this Article that a person at the time of the violation:
- (1) Had the verifiable permission of the City Council, City Manager, or their designee, or of an authorized officer of the specific public school district, Tulsa County, the State of Oklahoma, or the Federal government, as applicable based on which public entity owns, manages, or controls the public place, to encamp or otherwise be present in such public place; or
 - (2) Had the verifiable permission of the record property owner or the person in lawful possession of the private property to encamp or otherwise be present on such property; or
 - (3) An emergency or necessity reasonably required that person's presence in the public place or on the private property to prevent a different and greater or more significant and immediate harm to that person or someone else.
- (b) Any person who raises the affirmative defense of having verifiable permission to encamp or otherwise be present in a public place or on private property, as allowed by subsections (a) and (b) of this section, must produce in court written proof of the verifiable permission or sworn testimony of the required public officer, record owner, or person in lawful possession of the private property that such verifiable permission existed at the time. It is no defense to a violation of this article that a person mistakenly, but in good faith, believed that they had permission, lawful authority, or a right to encamp on the public or private property.

Sec. 16-72. Penalty.

Any person convicted of violating Section 16-70 of this Article shall be guilty of a Class “B” offense.

Sec. 16-73. Procedure for enforcement of this Article.

- (a) A police officer may issue a citation and/or make an arrest for a violation of Section 16-70 of this Article if, prior to issuing the citation or making the arrest:
 - (1) The officer has tendered a written warning to the person stating that a failure to comply with the City’s prohibition against encampment may result in the issuance of a criminal citation and/or arrest, or a written notice has been posted in a clearly visible location at the encampment site; and
 - (2) The officer has provided a reasonable time for the person to comply with the prohibition, but the person has not complied.
- (b) The written warning required by Subsection (a)(1) of this Section may be accompanied by written information regarding the availability of medical treatment, mental health treatment, drug or alcohol addiction services, or general social services, including temporary shelter, other housing services, and other services that may be available.
- (c) The City shall have no obligation to maintain, protect from damage, or protect from theft any unattended personal property belonging to a person who is arrested for violating this Article.

Sec. 16-74. Protection of constitutional rights.

No provision of this Article may be construed or enforced in a manner that violates the legal rights of any person under the Constitution or statutes of the United States or the Constitution or statutes of the State of Oklahoma.

Sec. 16-75 – 16-80. Reserved.

SECTION II. Severability.

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION III. Effective Date.

This ordinance shall take effect and be in full force from and after its passage and publication as required by law.

PASSED AND APPROVED and the emergency clause ruled upon separately this 19th day of August, 2025.

ATTEST:

MAYOR

(Seal) CITY CLERK

APPROVED:

CITY ATTORNEY