

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE BROKEN ARROW CODE OF ORDINANCES, CHAPTER 16 OFFENSES, ARTICLE I—IN GENERAL, SECTION 16-3.1 DOMESTIC ABUSE; ARREST WITHOUT A WARRANT; REPEALING ALL ORDINANCES TO THE CONTRARY; AND DECLARING AN EMERGENCY

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

SECTION I. Chapter 16, Offenses, Article I—In General, Section 16.3—Domestic abuse; arrest without a warrant shall be amended as follows:

Sec. 16-3.-Domestic abuse; arrest without warrant.

- (a) It shall be unlawful and a Class A offense for any person to commit an act of domestic abuse.
- (b) A police officer may arrest, without a warrant, a person anywhere, including the person's place of residence, if the police officer has probable cause to believe the person within the preceding ~~48 hours~~ 72 hours has committed an act of domestic abuse, as defined in subsection (d), although the assault did not take place in the presence of the police officer. A police officer may not arrest a person pursuant to this section without first having observed a recent injury to or impairment of the physical condition of the alleged victim.
- (c) A police officer may arrest, without a warrant, a person anywhere, including the person's place of residence, if the police officer has probable cause to believe the person within the preceding ~~48 hours~~ 72 hours has committed an act of domestic abuse in the presence of a child, as defined in subsection (e), although the assault did not take place in the presence of the police officer. A peace officer may not arrest a person pursuant to this section without first observing a recent physical injury to, or an impairment of the physical condition of the alleged victim.
- (d) For purposes of this section "domestic abuse" shall mean any act of physical harm or the threat of imminent physical harm which is committed by an adult, emancipated minor, or minor aged ~~16 or 17~~ 13 years or older against another adult, emancipated minor, or minor child who is currently or was previously an intimate partner or a family or household member ~~family or household members~~ as defined in subsection (f).
- (e) For purposes of this section, "in the presence of a child" means in the physical presence of a child; or having knowledge that a child is present and may see or hear.
- (f) "Family or household members" means:

- ~~(1) Spouses,~~
- ~~(2) Ex-spouses,~~
- ~~(3) Present spouses of ex-spouses,~~
- ~~(4) Parents, including grandparents, stepparents, adoptive parents and foster parents,~~
- ~~(5) Children, including grandchildren, stepchildren, adopted children and foster children,~~
- ~~(6) Persons otherwise related by blood or marriage,~~
- ~~(7) Persons living in the same household or who formerly lived in the same household, and~~
- ~~(8) Persons who are the biological parents of the same child, regardless of their marital status, or whether they have lived together at any time. This shall include the elderly and handicapped.~~
- ~~(9) A person with whom the defendant is in a dating relationship~~
- (1) Parents, including grandparents, stepparents, adoptive parents and foster parents,
- (2) Children, including grandchildren, stepchildren, adopted children and foster children, and
- (3) Persons otherwise related by blood or marriage living in the same household.

(g). "Intimate partner" means

- (1). Current or former spouses,
- (2). Persons who are or were in a dating relationship defined as an intimate association, primarily characterized by affectionate or sexual involvement. A casual acquaintance or ordinary fraternization between persons in a business or social context shall not constitute a dating relationship,
- (3). Persons who are the biological parents of the same child, regardless of their marital status or whether they have lived together at any time, and
- (4). Persons who currently or formerly lived together in an intimate way, primarily characterized by affectionate or sexual involvement. A sexual relationship may be an indicator that a person is an intimate partner, but is never a necessary condition.

SECTION II. Any ordinance or parts of ordinances found to be in conflict herewith are hereby repealed.

SECTION III. An emergency exists for the preservation of the public health, peace, and safety and therefore this ordinance shall become effective from and after the time of its passage and approval.

PASSED AND APPROVED and the emergency clause ruled upon separately this _____ day of _____, 2019.

ATTEST:

MAYOR

(Seal) CITY CLERK

APPROVED:

ASSISTANT CITY ATTORNEY