

ORDINANCE NO. 1-16-18-01

AN ORDINANCE ENACTING A NEW SECTION 14-36.1 TO THE CUSHING CITY CODE PROHIBITING TRUANCY AND DEFINING EXCEPTIONS; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HERewith; AND, DECLARING AN EMERGENCY.

BE IT NOW ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF CUSHING AS FOLLOWS:

Section 1. Cushing City Code Section 14-36.1. That the Cushing City Code is hereby amended by adding a section to be number 14-36.1, unless a conflict with numbering exists, which such section reads as follows:

§ 14-36.1 Truancy Prohibited; Exceptions.

- A. It shall be unlawful for a parent, guardian, or other person having custody of a child who is over the age of five years, and under the age of 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.
- B. It shall be unlawful for any child 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. Provided, that this section shall not apply:
- (1) If any such child 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) If any such child 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) If any such child who has attained his 16th birthday 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; or
 - (4) If any such child 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. The school district shall excuse a student pursuant to this subsection for the days on which the religious holy days are observed and for the days on which the student must travel to and from the site where the student will observe the holy days.
- C. It shall be the duty of the attendance officer to enforce the provisions of this section. In the prosecution of a parent, guardian, or other person having custody of a child for violation of any provision of this section, it shall be an affirmative defense that the parent, guardian, or other person having custody of the child has made substantial and reasonable efforts to comply with the compulsory attendance requirements of this section but is unable to cause the child to attend school. If the court determines the affirmative defense is valid, it shall dismiss the complaint against the parent, guardian, or other person having custody of the child and shall notify the school attendance officer who shall refer the child to the district attorney for the county in which the child resides for the filing of a child in need of supervision petition against the child pursuant to the state juvenile code.

- D. Any parent, guardian, custodian, child or other person violating any of the provisions of this section, upon conviction, shall be guilty of a misdemeanor, and shall be punished as follows:
- (1) For the first offense, a fine of not less than \$25.00 nor more than \$50.00, or imprisonment for not more than five days, or both such fine and imprisonment;
 - (2) For the second offense, a fine of not less than \$50.00 nor more than \$100.00, or imprisonment for not more than ten days, or both such fine and imprisonment; and
 - (3) For the third or subsequent offense, a fine of not less than \$100.00 nor more than \$250.00, or imprisonment for not more than 15 days, or both such fine and imprisonment.

Each day the child remains out of school after the oral and documented or written warning has been given to the parent, guardian, custodian, child or other person or the child has been ordered to school by the juvenile court shall constitute a separate offense.

- E. At the trial of any person charged with violating the provisions of this section, the attendance records of the child or ward may be presented in court by any authorized employee of the school district.
- F. The court may order the parent, guardian, or other person having custody of the child to perform community service in lieu of the fine set forth in this section. The court may require that all or part of the community service be performed for a public school district.
- G. The court may order as a condition of a deferred sentence or as a condition of sentence upon conviction of the parent, guardian, or other person having custody of the child any conditions as the court considers necessary to obtain compliance with school attendance requirements. The conditions may include, but are not limited to, the following:
- (1) Verifying attendance of the child with the school;
 - (2) Attending meetings with school officials;
 - (3) Taking the child to school;
 - (4) Taking the child to the bus stop;
 - (5) Attending school with the child;
 - (6) Undergoing an evaluation for drug, alcohol, or other substance abuse and following the recommendations of the evaluator; and
 - (7) Taking the child for drug, alcohol, or other substance abuse evaluation and following the recommendations of the evaluator, unless excused by the court.

Section 2. Severability. Severability is intended throughout and within the provisions of this ordinance. If any provision, including any exception, part, phrase, or term, or the application thereof to any persons or circumstances is held invalid, the application to other persons or circumstances shall not be affected thereby and the validity of the ordinance in any and all other respects shall not be affected thereby.

Section 3. Repeal. That all ordinances or parts of ordinances in conflict with this ordinance be and the same are now expressly repealed.

Section 4. Declaration of Emergency. That for the preservation of the public health, peace and safety, an emergency is hereby declared to exist by reason whereof this ordinance shall be in full force and effect from and after its passage, approval and publication.

PASSED AND APPROVED this 16th day of January, 2018.


Don Amon, Chairman
Board of Commissioners