

CONTEMPT OF COURT

BILL NO. _____

INTRODUCED BY COUNCIL

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 1.12 OF THE SPARKS MUNICIPAL CODE, RELATING TO CONTEMPT OF COURT, AND PROVIDING OTHER MATTERS PROPERLY RELATED THERETO.

THE CITY COUNCIL OF THE CITY OF SPARKS DOES ORDAIN:

SECTION 1. Section 1.12.033, "Acts or omissions constituting contempts," is hereby added as follows:

Section 1.12.033 – Acts or omissions constituting contempts.

The following acts or omissions shall be deemed contempts:

- A. Disorderly, contemptuous or insolent behavior toward the judge while the judge is holding court, or engaged in judicial duties at chambers, or toward masters or arbitrators while sitting on a reference or arbitration, or other judicial proceeding.
- B. A breach of the peace, boisterous conduct or violent disturbance in the presence of the court, or in its immediate vicinity, tending to interrupt the due course of the trial or other judicial proceeding.
- C. Disobedience or resistance to any lawful writ, order, rule or process issued by the court or judge at chambers.
- D. Disobedience of a subpoena duly served, or refusing to be sworn or answer as a witness.
- E. Rescuing any person or property in the custody of an officer by virtue of an order or process of such court or judge at chambers.
- F. Disobedience of the order or direction of the court made pending the trial of an action, in speaking to or in the presence of a juror concerning an action in which the juror has been impaneled to determine, or in any manner approaching or interfering with such juror with the intent to influence the verdict.
- G. Abusing the process or proceedings of the court or falsely pretending to act under the authority of an order or process of the court.
- H. Failing to appear in accordance with a written promise to appear in court, regardless of the disposition of the charge upon which the person was originally arrested.

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- I. Failing to appear before the municipal court after having represented in writing to a peace officer or other authorized person of the city, county, or state that the person will appear to answer a charge of violating any provisions of this code, regardless of the disposition of the underlying charge.
- J. Failing, refusing, or neglecting to comply with the terms of any order, judgment, or other process issued by the municipal court.

SECTION 2. Section 1.12.035, “Procedures and penalty for contempt,” is hereby **added** as follows:

Section 1.12.035 – Procedures and penalty for contempt.

- A. The processes and procedures set forth in Chapter 22 of the Nevada Revised Statutes apply to a determination of contempt under SMC 1.12.033. Any person who is found to have violated the provisions of SMC 1.12.033 shall be punished in the same manner and with the same effect as provided in NRS Chapter 22 and this section.
- B. Upon the answer and evidence taken, the court shall determine whether the person proceeded against is guilty of the contempt charged.
- C. Except as otherwise provided in subsection E, if a person is found guilty of contempt, a fine may be imposed on the person not exceeding \$500 or the person may be imprisoned not exceeding 25 days, or both.
- D. In addition to the penalties provided in subsection C, if a person is found guilty of contempt pursuant to subsection C, the court may require the person to pay to the party seeking to enforce the writ, order, rule or process the reasonable expenses, including, without limitation, attorney’s fees, incurred by the party as a result of the contempt.
- E. Except as otherwise provided by law, when the contempt consists in the omission to perform an act which is yet in the power of the person to perform, the person may be imprisoned until the person performs it. The required act must be specified in the warrant of commitment.

SECTION 3. Section 1.12.040, “Criminal contempt,” is hereby **amended** as follows:

Section 1.12.040 - Criminal contempt.

Every person who commits a contempt of the municipal court of any one of the following kinds is guilty of a misdemeanor:

- A. Disorderly, contemptuous or insolent behavior committed during the sitting of the court, in its immediate view and presence, and directly tending to interrupt its proceedings or to impair the respect due to its authority; or

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- B. Breach of the peace, noise or other disturbance directly tending to interrupt the proceedings of the court; or
- C. ~~Willful~~ Willful disobedience to the lawful process or mandate of the court; or
- D. Resistance, ~~willfully~~ willfully offered, to its lawful process or mandate; or
- E. Contumacious and unlawful refusal to be sworn as a witness or, after being sworn, to answer any legal and proper interrogatory; or
- F. Publication of a false or grossly inaccurate report of its proceedings; or
- G. Assuming to be an attorney or officer of the court or acting as such without authority.

SECTION 4. Section 1.12.060, “Minimum state law penalties,” is hereby **amended** as follows:

Section 1.12.060 - Minimum or maximum state law penalties.

When under this code an offense is set forth which is identical to or substantially similar to an offense set forth under state law, and a minimum or maximum penalty is set forth under state law for that offense, the minimum or maximum penalty for the violation of the city code provision shall be the same as that provided for the violation of state law.

SECTION 5. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 6. The City Clerk is instructed and authorized to publish the title to this ordinance as provided by law.

SECTION 7. This ordinance shall become effective upon passage, approval and publication.

SECTION 8. The provisions of this ordinance shall be liberally construed to effectively carry out its purposes in the interest of the public health, safety, welfare and convenience.

SECTION 9. If any subsection, phrase, sentence 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 portions.

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SECTION 10. The City Council finds that this ordinance is **not** likely to impose a direct and significant economic burden upon a business or directly restrict the formation, operation or expansion of a business, or is otherwise exempt from Nevada Revised Statutes Chapter 237.

PASSED AND ADOPTED this ____ day of _____, 20____, by the following vote of the City Council:

AYES: _____

NAYS: _____

ABSTAIN: _____

ABSENT: _____

APPROVED this ____ day of _____, 20____, by:

GENO MARTINI, Mayor

ATTEST:

TERESA GARDNER, City Clerk

APPROVED AS TO FORM AND LEGALITY:

CHESTER H. ADAMS, City Attorney