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FIRST AMENDMENT

BILL NO. 2019-35

ORDINANCE NO. 6706

AN ORDINANCE ADDING TO LVMC TITLE 10 A NEW CHAPTER TO ESTABLISH A CITY MISDEMEANOR OFFENSE OF "BATTERY WHICH CONSTITUTES DOMESTIC VIOLENCE," ALONG WITH CORRESPONDING PENALTIES, AND TO PROVIDE FOR OTHER RELATED MATTERS.

Proposed by: Bradford R. Jerbic, City Attorney

Summary: Adds to LVMC Title 10 a new chapter to establish a City misdemeanor offense of "battery which constitutes domestic violence," along with corresponding penalties.

THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Title 10 of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended by adding thereto a new chapter, designated as Chapter 32 and consisting of Sections 10 and 20, reading as follows:

10.32.010: (A) It is unlawful for a person to commit battery which constitutes domestic violence as described in this Section. A person commits battery which constitutes domestic violence when the person commits a battery against or upon the person's spouse or former spouse, any other person to whom the person is related by blood or marriage, any other person with whom the person has had or is having a dating relationship, any other person with whom the person has a child in common, the minor child of any of those persons, the person's minor child or any other person who has been appointed the custodian or legal guardian for the person's minor child.

(B) The provisions of this Section do not apply to:

(1) Siblings, except those siblings who are in a custodial or guardianship relationship with each other; or

(2) Cousins, except those cousins who are in a custodial or guardianship relationship with each other.

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1 (C) As used in this Section, "dating relationship" means frequent, intimate associations  
2 primarily characterized by the expectation of affectional or sexual involvement. The term does not include a  
3 casual relationship or an ordinary association between persons in a business or social context.

4 **10.32.020:** (A) A person convicted of a battery which constitutes domestic violence pursuant  
5 to LVMC 10.32.010:

6 (1) For the first offense within seven years, is guilty of a misdemeanor and shall  
7 be sentenced to:

8 (a) Imprisonment in the City jail or detention facility for not less than  
9 two days, but not more than six months; and

10 (b) Perform not less than forty-eight hours, but not more than one  
11 hundred twenty hours, of community service.

12 →The person shall be further punished by a fine of not less than two hundred dollars, but not more than one  
13 thousand dollars. A term of imprisonment imposed pursuant to this Paragraph (1) may be served  
14 intermittently at the discretion of the judge, except that each period of confinement must be not less than  
15 twelve consecutive hours and must occur at a time when the person is not required to be at his or her place  
16 of employment or on a weekend.

17 (2) For the second offense within seven years, is guilty of a misdemeanor and  
18 shall be sentenced to:

19 (a) Imprisonment in the City jail or detention facility for not less than  
20 twenty days, but not more than six months; and

21 (b) Perform not less than one hundred hours, but not more than two  
22 hundred hours, of community service.

23 →The person shall be further punished by a fine of not less than five hundred dollars, but not more than one  
24 thousand dollars. A term of imprisonment imposed pursuant to this Paragraph (2) may be served  
25 intermittently at the discretion of the judge, except that each period of confinement must not be less than  
26 twelve consecutive hours and must occur at a time when the person is not required to be at his or her place

1 of employment or on a weekend.

2 (B) In addition to any other penalty, if a person is convicted of a battery which  
3 constitutes domestic violence pursuant to LVMC 10.32.010, the court shall:

4 (1) For the first offense within seven years, require the person to participate in  
5 weekly counseling sessions of not less than one and one-half hours per week for not less than six months, but  
6 not more than twelve months, at his or her expense, in a program for the treatment persons who commit  
7 domestic violence that has been certified pursuant to NRS 439.258.

8 (2) For the second offense within seven years, require the person to participate  
9 in weekly counseling sessions of not less than one and one-half hours per week for twelve months, at his or  
10 her expense, in a program for the treatment of persons who commit domestic violence that has been certified  
11 pursuant to NRS 439.258.

12 →If the person resides in this State but the nearest location at which counseling services are available is in  
13 another state, the court may allow the person to participate in counseling in the other state in a program for  
14 the treatment of persons who commit domestic violence that has been certified pursuant to NRS 439.258.

15 (C) Except as otherwise provided in this Subsection, an offense that occurred within  
16 seven years immediately preceding the date of the principal offense or after the principal offense constitutes  
17 a prior offense for the purposes of this section:

18 (1) When evidenced by a conviction; or

19 (2) If the offense is conditionally dismissed pursuant to NRS 176A.290 or  
20 dismissed in connection with successful completion of a diversionary program or specialty court program,  
21 →without regard to the sequence of the offenses and convictions. The facts concerning a prior offense must  
22 be alleged in the complaint, must not be read to the trier of fact or proved at trial but must be proved at the  
23 time of sentencing.

24 (D) In addition to any other fine or penalty, the court shall order such a person to pay an  
25 administrative assessment of thirty-five dollars. Any money so collected must be paid by the clerk of the  
26 court to the State Controller on or before the fifth day of each month for the preceding month for credit to

1 the Account for Programs Related to Domestic Violence established pursuant to NRS 228.460.

2 (E) In addition to any other penalty, the court may require such a person to participate,  
3 at his or her expense, in a program of treatment for the abuse of alcohol or drugs that has been certified by  
4 the Division of Public and Behavioral Health of the Department of Health and Human Services.

5 (F) If it appears from information presented to the court that a child under the age of  
6 eighteen years may need counseling as a result of the commission of a battery which constitutes domestic  
7 violence pursuant to LVMC 10.32.010, the court may refer the child to an agency which provides child  
8 welfare services. If the court refers a child to an agency which provides child welfare services, the court shall  
9 require the person convicted of a battery which constitutes domestic violence pursuant to LVMC 10.32.010  
10 to reimburse the agency for the costs of any services provided, to the extent of the convicted person's ability  
11 to pay.

12 (G) If a person is charged with committing a battery which constitutes domestic violence  
13 pursuant to LVMC 10.32.010, a prosecuting attorney shall not dismiss such a charge in exchange for a plea  
14 of guilty, guilty but mentally ill or nolo contendere to a lesser charge or for any other reason unless the  
15 prosecuting attorney knows, or it is obvious, that the charge is not supported by probable cause or cannot be  
16 proved at the time of trial. Except as otherwise provided in this Subsection, a court shall not grant probation  
17 to or suspend the sentence of such a person. A court may grant probation to or suspend the sentence of such  
18 a person:

19 (1) As set forth in NRS 5.055; or

20 (2) To assign the person to a program for the treatment of veterans and members  
21 of the military pursuant to NRS 176A.290 if the charge is for a first offense punishable as a misdemeanor.

22 (H) As used in this Section:

23 (1) "Agency which provides child welfare services" has the meaning ascribed  
24 to it in NRS 432B.030.

25 (2) "Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of  
26 NRS 200.481.

1 (3) "Offense" includes a battery which constitutes domestic violence pursuant  
2 to LVMC 10.32.010 or a violation of the law of any other jurisdiction that prohibits the same or similar  
3 conduct.

4 SECTION 2: This Ordinance is intended to create a City misdemeanor violation that:

- 5 (A) Operates independently of the general laws of this State on the same subject; and
- 6 (B) Is not in conflict therewith.

7 SECTION 3: If any section, subsection, subdivision, paragraph, sentence, clause or phrase  
8 in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by  
9 any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the  
10 remaining portions of this ordinance or any part thereof. The City Council of the City of Las Vegas hereby  
11 declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase  
12 thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs,  
13 sentences, clauses or phrases be declared unconstitutional, invalid or ineffective.

14 SECTION 4: Whenever in this ordinance any act is prohibited or is made or declared to  
15 be unlawful or an offense or a misdemeanor, or whenever in this ordinance the doing of any act is required  
16 or the failure to do any act is made or declared to be unlawful or an offense or a misdemeanor, the doing of  
17 such prohibited act or the failure to do any such required act shall constitute a misdemeanor and upon  
18 conviction thereof, shall be punished by a fine of not more than \$1,000.00 or by imprisonment for a term of  
19 not more than six months, or by any combination of such fine and imprisonment. Any day of any violation  
20 of this ordinance shall constitute a separate offense.

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SECTION 5: All ordinances or parts of ordinances or sections, subsections, phrases, sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, in conflict herewith are hereby repealed.

PASSED, ADOPTED and APPROVED this 16<sup>th</sup> day of October, 2019.

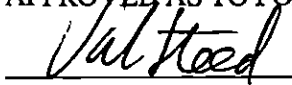
APPROVED:

By   
CAROLYN G. GOODMAN, Mayor

ATTEST:

  
LUANN D. HOLMES, MMC  
City Clerk

APPROVED AS TO FORM:

 10-14-19  
Val Steed, Date  
Deputy City Attorney

1 The above and foregoing ordinance was first proposed and read by title to the City Council  
2 on the 2<sup>nd</sup> day of October, 2019, and referred to a committee for recommendation;  
3 thereafter the said committee reported favorably on said ordinance on the 16<sup>th</sup> day of  
4 October, 2019, which was a regular meeting of said Council; that at said regular meeting,  
5 the proposed ordinance was read by title to the City Council as amended and adopted by  
6 the following vote:

7 VOTING "AYE": Mayor Goodman and Councilmembers Fiore, Anthony,  
Knudsen, Seaman and Diaz  
8 VOTING "NAY": Crear  
9 EXCUSED: None  
10 ABSTAINED: None

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12 APPROVED:

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15 CAROLYN G. GOODMAN, Mayor

16 ATTEST:

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19 LUANN D. HOLMES, MMC City Clerk  
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AFFIDAVIT OF PUBLICATION

STATE OF NEVADA)  
COUNTY OF CLARK) SS:

RECEIVED  
CITY CLERK

2019 OCT -7 P 4: 33

LV CITY CLERK  
495 S MAIN ST  
LAS VEGAS NV 89101

Account # 22515  
Ad Number 0001071457

Leslie McCormick, being 1st duly sworn, deposes and says: That she is the Legal Clerk for the Las Vegas Review-Journal and the Las Vegas Sun, daily newspapers regularly issued, published and circulated in the City of Las Vegas, County of Clark, State of Nevada, and that the advertisement, a true copy attached for, was continuously published in said Las Vegas Review-Journal and / or Las Vegas Sun in 1 edition(s) of said newspaper issued from 10/03/2019 to 10/03/2019, on the following days:

10 / 03 / 19

**BILL NO. 2019-35**

AN ORDINANCE ADDING TO LVMC TITLE 10 A NEW CHAPTER TO ESTABLISH A CITY MISDEMEANOR OFFENSE OF "BATTERY WHICH CONSTITUTES DOMESTIC VIOLENCE," ALONG WITH CORRESPONDING PENALTIES, AND TO PROVIDE FOR OTHER RELATED MATTERS.

Proposed by:  
Bradford R. Jerbic, City Attorney

Summary: Adds to LVMC Title 10 a new chapter to establish a City misdemeanor offense of "battery which constitutes domestic violence," along with corresponding penalties.

At the City Council meeting of October 2, 2019

BILL NO. 2019-35 WAS READ BY TITLE AND REFERRED TO A RECOMMENDING COMMITTEE

COPIES OF THE COMPLETE ORDINANCE ARE AVAILABLE FOR PUBLIC INFORMATION IN THE OFFICE OF THE CITY CLERK, 2ND FLOOR, 495 SOUTH MAIN STREET, LAS VEGAS, NEVADA

PUB: Oct. 3, 2019  
LV Review-Journal

*Leslie McCormick*  
/s/ \_\_\_\_\_  
LEGAL ADVERTISEMENT REPRESENTATIVE

Subscribed and sworn to before me on this 3rd day of October, 2019

Notary *Mary A. Lee*  
\_\_\_\_\_



AFFIDAVIT OF PUBLICATION

STATE OF NEVADA)  
COUNTY OF CLARK) SS:

RECEIVED  
CITY CLERK

2019 OCT 28 A 11:36

LV CITY CLERK  
495 S MAIN ST  
LAS VEGAS NV 89101

Account # 22515  
Ad Number 0001073942

Leslie McCormick, being 1st duly sworn, deposes and says: That she is the Legal Clerk for the Las Vegas Review-Journal and the Las Vegas Sun, daily newspapers regularly issued, published and circulated in the City of Las Vegas, County of Clark, State of Nevada, and that the advertisement, a true copy attached for, was continuously published in said Las Vegas Review-Journal and / or Las Vegas Sun in 1 edition(s) of said newspaper issued from 10/19/2019 to 10/19/2019, on the following days:

10 / 19 / 19

FIRST AMENDMENT

BILL NO. 2019-35  
ORDINANCE NO. 6706

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Proposed by:  
Bradford R. Jerbic, City Attorney

Adds to LVMC Title 10 a new chapter to establish a City misdemeanor offense of "battery which constitutes domestic violence," along with corresponding penalties.

The above and foregoing ordinance was first proposed and read by title to the City Council on the 2nd day of October, 2019, and referred to a committee for recommendation; thereafter the committee reported that it had no recommendation regarding said ordinance on the 16th day of October, 2019, which was a regular meeting of said City Council; and that at said regular meeting the proposed ordinance was read by title to the City Council as amended and adopted by the following vote:

VOTING "AYE": Mayor Goodman and Councilmembers Fiore, Anthony, Knudsen, Seaman, and Diaz

VOTING "NAY": Councilman Crear  
EXCUSED: NONE

COPIES OF THE COMPLETE ORDINANCE ARE AVAILABLE FOR PUBLIC INFORMATION IN THE OFFICE OF THE CITY CLERK, 2ND FLOOR, 495 SOUTH MAIN STREET, LAS VEGAS, NEVADA

PUB: October 19, 2019  
LV Review-Journal

  
\_\_\_\_\_  
LEGAL ADVERTISEMENT REPRESENTATIVE

Subscribed and sworn to before me on this 21st day of October, 2019

Notary 

