

O-2024-1

AN ORDINANCE

AMENDING TITLE I OF THE LAKEWOOD MUNICIPAL CODE TO COMPLY WITH RECENT STATE LEGISLATION AFFECTING MUNICIPAL PROSECUTION OF ACTS CONSTITUTING CRIMES OF DOMESTIC VIOLENCE

WHEREAS, the City of Lakewood, Colorado, the "City", is a home rule municipality, organized and existing under Article XX, Section 6 of the Colorado Constitution;

WHEREAS, pursuant to Article XX, Section 6 of the Colorado Constitution, the right to enact, administer and enforce criminal laws through a municipal court is clearly within the Constitutional grant of power to the City and is necessary and proper for the government and administration of local and municipal matters relating to the City;

WHEREAS, pursuant to such authority, the City has created a municipal court and adopted and enacted criminal codes whose enforcement is administered through the municipal court;

WHEREAS, the City prosecutes offenses constituting acts of domestic violence;

WHEREAS, the State of Colorado has enacted legislation prescribing specific requirements applicable to municipal prosecution of offenses constituting acts of domestic violence; and

WHEREAS, the City desires to amend its Code to conform with recently passed State requirements;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. Amending Section 1.16 of the Lakewood Municipal Code. Section 1.16 of the Lakewood Municipal Code is hereby amended as follows:

"Section 1.16.020 Penalties designated" shall include a new Section B and (B)(1), to read:

B. In cases involving an act of domestic violence, as defined in section 18-1.3-800.3 of the Colorado Revised Statutes, the court shall sentence the offender in accordance with Section 18-6-801 (1), (3), (4), (5), (6), and (8) of the Colorado Revised Statutes, consistent with the jurisdiction of the municipal court.

1. Any sentence to probation shall include conditions consistent with requirements of section 18-1.3-204 of the Colorado revised statutes.

Sections B-F shall become sections C-G, respectively.

"Section 1.16.080 Protection order against defendant" shall be revised as follows:

- A. Any Municipal Judge is empowered to issue a protection order against any person charged with a violation of any of the provisions of Title 9 of the Lakewood Municipal Code, pertaining to domestic violence as defined in section 18-6-800.3 of the Colorado Revised Statutes hereafter or any person charged with a violation of Section 9.20.010 pertaining to assault, which protection order shall remain in effect from the time that the person is advised of his or her rights at arraignment or the person's first appearance before the court and informed of such order until final disposition of the action. Such protection order shall restrain the person charged from harassing, molesting, intimidating, retaliating against, or tampering with any witness to or victim of the acts charged. The protection order issued pursuant to this section shall be on a standardized form prescribed by the judicial department and a copy shall be provided to the protected parties.
  1. When the court subjects a defendant to a mandatory protection order that the court, using the probable cause standard of review, determines on the record after reviewing the probable cause statement or arrest warrant that the order includes a crime that includes an act of domestic violence, and the act involved the threat of use, use of, or attempted use of physical force, the court shall enter orders consistent with section 18-1-1001(9) of the Colorado Revised Statutes, regarding possession, purchase, and relinquishment of firearms and ammunition.

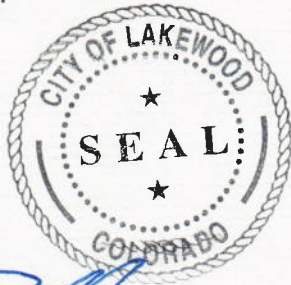
Section H shall be amended as follows:

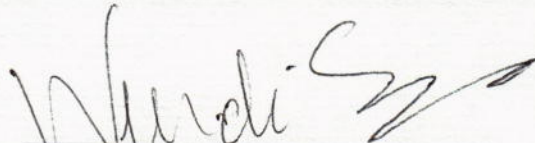
- H. Domestic Violence and Intimate Relationship are defined by section 18-6-800.3 of the Colorado Revised Statute. The City of Lakewood shall apply the same definitions, which may be modified by the State Legislature. Any conflict between the following definitions and the definitions in the Colorado Revised Statute shall be resolved by applying the statutory definition.
  1. "Domestic violence" means an act or threatened act of violence upon a person with whom the actor is or has been involved in an intimate relationship. "Domestic violence" also includes any other crime against a person, or against property, including an animal, or any municipal ordinance violation against a person, or against property, including an animal, when used as a method of coercion, control, punishment, intimidation, or revenge directed against a person with whom the actor is or has been involved in an intimate relationship.
  2. "Intimate relationship" means a relationship between spouses, former spouses, past or present unmarried couples, or persons who are both the parents of the same child regardless of whether the persons have been married or have lived together at any time.

SECTION 2. This ordinance shall take effect thirty (30) days after final publication.

SECTION 3. If any provision of this Ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this Ordinance that can be given effect without the invalid portion, provided that such remaining portions or application of this Ordinance are not determined by the court to be inoperable.

I hereby attest and certify that the within and foregoing ordinance was introduced and read on first reading at a hybrid regular meeting of the Lakewood City Council on the 8th day of January 2024; published by title in the Denver Post and in full on the City of Lakewood's website, [www.lakewood.org](http://www.lakewood.org), on the 11th day of January 2024; set for public hearing to be held on the 22nd day of January 2024, read, finally passed and adopted by the City Council on the 22nd day of January 2024, and, signed by the Mayor on the 23<sup>rd</sup> day of January 2024.




  
\_\_\_\_\_  
Wendi Strom, Mayor

ATTEST:

  
\_\_\_\_\_  
Jay Robb, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Alison McKenney Brown, City Attorney