

Ordinance No. 661

An ordinance amending the Forks Criminal Code Chapter 9.35 regarding court orders

WHEREAS, the State legislature revised the provisions regarding antiharassment protection orders;

WHEREAS, the City's code regarding court orders and their enforcement when potentially criminal violations of those civil court orders occurs should be consistent with state law;

WHEREAS, the City's "Petit Larceny" also includes a duplicative provision found in FMC Chapter 9.30;

WHEREAS, amending the criminal code provisions would provide both consistency and clarity;

WHEREAS, articulating the role of law enforcement and the City Attorney, in their capacity as the City's Prosecutor, is of equal importance in light of the changes made by the State legislature;

BASED THEREON, THE CITY COUNCIL OF THE CITY OF FORKS DOES ORDAIN AS FOLLOWS:

Section 1. Amending FMC 9.35.020. Forks Municipal Code Chapter 9.35.020 is amended as follows with the stricken text being removed and replaced by the text that is underlined:

9.35.020 Violation of order entered for purposes of protecting against domestic violence. Whenever an order is granted under Chapters 7.105, 10.99, 26.09, 26.26A, 26.26B, 26.50, or 74.34 RCW, or there exists a valid foreign protection order as defined in RCW 26.52.020 (State's Foreign Protection Order Full Faith and Credit Act), or there is a Canadian domestic violence protection order as defined in RCW 26.55.010, and the respondent or person to be restrained knows of the order, or and respondent or person to be restrained:

- (1) Violates the restraint provisions; or
- (2) Violates a provision excluding the person from a residence, workplace, school or day care; or
- (3) Violates a provision prohibiting a person from knowingly coming within, or knowingly remaining within, a specified distance of a location; or
- (4) Violates a provision prohibiting interfering with the protected party's efforts to remove a pet owned, possessed, leased, kept, or held by the petitioner, the respondent, or a minor child residing with either the petitioner or the respondent;
- (4) (5) Violates a provision of a foreign protection order or a Canadian domestic violence protection order specifically indicating that a violation will be a crime, for which an arrest is required under RCW 10.31.100(2)(a) or (b);

said respondent or person to be restrained shall have committed a crime which upon conviction shall be punishable as a gross misdemeanor, except as provided in

RCW 26.50.110(4) or (5), with a fine not to exceed \$5,000, or by imprisonment in jail for a period not to exceed 365 days or by both fine and imprisonment. Pursuant to RCW 7.105.450(2), a Forks Police Officer shall arrest without warrant and take into custody a person whom the law enforcement officer has probable cause to believe that that person has knowingly violated this chapter of the municipal code with regards to the orders referenced above.

Upon conviction, and in addition to any other penalties provided by law, the court may require that the respondent submit to electronic monitoring. The court shall specify who shall provide the electronic monitoring services, and the terms for which the monitoring shall be performed. The order also may include a requirement that the respondent pay the costs of the monitoring. The court shall consider the ability of the convicted person to pay for electronic monitoring. (Ord. 479 § 3, 2001)

**Section 2. Authorizing Compliance with the Contempt Provisions of Chapter 7.105 Revised Code of Washington as FMC 9.35.025.** The following is added to the Forks Municipal Code.

The City Attorney, acting in their capacity as the City's Prosecuting Attorney, shall be authorized to undertake the duties articulated by law as found within RCW 7.105.470 regarding the initiating and prosecuting of contempt proceeding if there is probable cause to believe that the violation occurred. A determination by the Court that the violator was in contempt of court will require violator of the order to pay the costs incurred by the City to bring the action, including a reasonable attorney's fee.

Section 3. This ordinance shall be published in the City's journal of record following its adoption pursuant to state law.

Section 4. Effective Date. This ordinance shall take effect on 15 Jan 2023.

Passed by the City Council on the 27<sup>th</sup> of December 2022.

  
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Tim Fletcher, Mayor

Authenticated and Attested to:

Approved as to Form:

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Audrey Grafstrom, Clerk/Treasurer

  
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William R. Fleck, Attorney/Planner