

ORDINANCE NO. 2509

INTRODUCED BY: ALLEN-THOMAS, CHACON, DOUGLAS, FORD, HURST, HUSEMAN, KIM, MADERA, NOBLE

AN ORDINANCE TO AMEND COMMERCE CITY REVISED MUNICIPAL CODE (CCRMC) SECTION 12-4003 TO COMPLY WITH STATE V. MORENO, 2022 CO 15, CASE NO. 21SA181 (2022)

WHEREAS, on March 28, 2022, the Colorado Supreme Court decided, State v. Moreno, 2022 CO 15, Case No. 21SA181 (2022), holding the phrase “intended to harass” as used in Colorado Revised Statute (C.R.S.) § 18-19-111(e), an anti-harassment statute, was unconstitutionally overbroad;

WHEREAS, the Colorado Supreme Court excised the words “harass or” from subsection (1)(e) to remedy the constitutional violation; and

WHEREAS, currently the language of Section 12-4003—Harassment, subpart (4), mirrors the unconstitutional language the Court struck down in C.R.S. § 18-19-111(e).

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO, AS FOLLOWS:

SECTION 1. Findings. The recitals to this resolution are incorporated as findings of the City Council. This resolution is found to be necessary for the preservation of the public health, safety, and welfare and in the public interest.

SECTION 2. Amendment. Section 12-4003(4) of the Commerce City Revised Municipal Code is hereby amended as reflected in Exhibit A. The Amendment is necessary to comply with Colorado Supreme Court case law.

SECTION 3. Repealer. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency.

SECTION 4. Effective Date. This ordinance shall be effective immediately upon passage on second and final reading.

INTRODUCED, PASSED ON FIRST READING AND PUBLIC NOTICE ORDERED THIS 15TH DAY OF MAY 2023.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED THIS 5TH DAY OF JUNE 2023.

CITY OF COMMERCE CITY, COLORADO

Benjamin A. Huseman, Mayor

ATTEST

Dylan A. Gibson, City Clerk

EXHIBIT A TO ORDINANCE 2509
(Clean Version)

Sec. 12-4003. Harassment.

It shall be unlawful for any person to do any of the following with the intent to harass, annoy, or alarm another person:

- (1) Strike, shove, kick or otherwise touch a person or subject him to physical contact;
- (2) Direct obscene language or makes an obscene gesture to or at another person while in a public place;
- (3) Follow a person in or about a public place;
- (4) Initiate communication with a person, anonymously or otherwise, by telephone, computer, computer network, or computer system in a manner intended to threaten bodily injury or property damage, or make any comment, request, suggestion, or proposal by telephone, computer, computer network, or computer system which is obscene;
- (5) Make a telephone call or cause a telephone to ring repeatedly, whether or not a conversation ensues, with no purpose of legitimate conversation;
- (6) Make repeated communications at inconvenient hours or in offensively coarse language; or
- (7) Repeatedly insult, taunt or challenge another in a manner likely to provoke a violent or disorderly response.

Any act prohibited by paragraphs (4)—(6) may be deemed to have occurred or to have been committed at the place at which the telephone call, electronic mail, or other electronic communication was either made or received.

EXHIBIT B TO ORDINANCE 2509
(Redline Version)

Redline strikethrough text indicates removals. Blue underline text indicates additions.

Sec. 12-4003. Harassment.

It shall be unlawful for any person to do any of the following with the intent to harass, annoy, or alarm another person:

- (1) Strike, shove, kick or otherwise touch a person or subject him to physical contact;
- (2) Direct obscene language or makes an obscene gesture to or at another person while in a public place;
- (3) Follow a person in or about a public place;
- (4) Initiate communication with a person, anonymously or otherwise, by telephone, computer, computer network, or computer system in a manner intended to ~~harass or~~ threaten bodily injury or property damage, or make any comment, request, suggestion, or proposal by telephone, computer, computer network, or computer system which is obscene;
- (5) Make a telephone call or cause a telephone to ring repeatedly, whether or not a conversation ensues, with no purpose of legitimate conversation;
- (6) Make repeated communications at inconvenient hours or in offensively coarse language; or
- (7) Repeatedly insult, taunt or challenge another in a manner likely to provoke a violent or disorderly response.

Any act prohibited by paragraphs (4)—(6) may be deemed to have occurred or to have been committed at the place at which the telephone call, electronic mail, or other electronic communication was either made or received.