

ORDINANCE NO. 25-2022

AN ORDINANCE AMENDING SECTION 11-62 OF THE *CODE OF ORDINANCES OF THE CITY OF ALAMOSA* CONCERNING HARASSMENT

WHEREAS, Alamosa's ordinance governing harassment, codified at Section 11-62 of the *Code of Ordinances of the City of Alamosa* (the *Code*) is patterned after the Colorado state statute concerning harassment, C.R.S. § 18-9-111; and

WHEREAS, portions of the state statute that correspond to provisions in Section 11-62(a)(4) and 11-62(a)(5) of the *Code* have been held to be unconstitutional by the Colorado Supreme Court, see *People v. Norman*, 703 P.2d 1261 (Colo. 1985) and *People v. Moreno*, 2022 CO 15, 21SA181 (Colo. 2022); and

WHEREAS, Alamosa's harassment ordinance has not been substantively amended since its adoption in 1994, and portions of it, including the prohibition on the use of obscene language or gestures and the limitation of certain harassing behavior to that conducted by telephone, do not satisfactorily address current modes of communication in the City of Alamosa; and

WHEREAS, City Council has determined it to be in the best interests of the citizens of Alamosa to amend Section 11-62 of the *Code* to address the matters set forth above;

NOW, THEREFORE, BE IT HEREBY ORDAINED by the City Council of the City of Alamosa, Colorado, as follows:

Section 1. Repeal of Sec. 11-62(a)(2). Section 11-62(a)(2) of the Alamosa Code of Ordinances is repealed, and remaining sections renumbered accordingly.

Section 2. Repeal of Sec. 11-62(a)(4). Section 11-62(a)(4) of the Alamosa Code of Ordinances is repealed, and remaining sections renumbered accordingly.

Section 3.. Amendment of Sec. 11-62(a)(5). Section 11-62(a)(5) of the Alamosa Code of Ordinances is amended to read in its entirety as follows:

- (5) Repeatedly initiates communication with a person in a manner intended to threaten bodily injury or property damage, or repeatedly makes any comment, request, suggestion, gesture or proposal by which is obscene; or

Section 4. Amendment of Sec. 11-62(c). Section 11-62(c) of the Alamosa Code of Ordinances is amended to read in its entirety as follows:

- (c) Any act prohibited by this section and committed over remote means (telephone, email, text message, and the like) may be deemed to have occurred or to have been committed at the place at which the remote communication either was made or received.

Section 5. Repealer. All acts, orders, ordinances, resolutions, or portions thereof in conflict with the sections adopted in this Ordinance, are hereby repealed to the extent of such conflict.

Section 6. Recording and Authentication. This ordinance, immediately upon its passage, shall be authenticated by the signatures of the Mayor and City Clerk, recorded in the City book of Ordinances kept for that purpose, and published according to law.

Section 7. Publication and Effective Date. This ordinance shall take effect ten (10) days after publication following final passage. Publication both before and after final passage shall be by the title of this ordinance, which Council determines constitutes a sufficient summary of the ordinance, together with the statement that the full text of the ordinance is available for public inspection and acquisition on the City's website and in the office of the City Clerk.

Section 8. Declaration of Public Interest. This ordinance is necessary to preserve the peace, health, safety, welfare, and to serve the best interest of the citizens of the City of Alamosa, Colorado.

Section 9. Codification. The City Clerk is directed to codify the provisions of this ordinance in the *Code of Ordinances of the City of Alamosa* in substantially the same form as set forth herein.

INTRODUCED, READ AND APPROVED on first reading the 7th day of December 2022, and published as provided by law with notice of a public hearing to be held for consideration of the adoption of the said ordinance on the 4th day of January 2023, at 7:00 p.m., or as soon thereafter as the matter may be heard, or on such subsequent date to which the public hearing or Council consideration may be continued.

APPROVED, AND ADOPTED after the public hearing on the 4th day of January 2023.

CITY OF ALAMOSA

By Ty Coleman
Ty Coleman, Mayor

ATTEST:

Holly C. Martinez
Holly C. Martinez, City Clerk

