

TOWN OF MT. CRESTED BUTTE
ORDINANCE NO. 21
SERIES 2025

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO AMENDING SECTION 15-28 OF THE CODE OF THE TOWN OF MT. CRESTED BUTTE, COLORADO CONCERNING HARASSMENT TO COMPLY WITH RECENT COLORADO SUPREME COURT CASE LAW

WHEREAS, the Town of Mt. Crested Butte, Colorado (“Town”) is a Colorado home-rule municipality governed by its Town Council (“Council”) having all the powers conferred by Article XX of the Colorado Constitution; and

WHEREAS, pursuant to such authority, the Council has previously defined and adopted certain general offenses, codified as Chapter 15 of the Code of the Town of Mt. Crested Butte, Colorado (“Code”), including a prohibition of harassment, codified as Code Sec. 15-28; and

WHEREAS, on March 28, 2022, the Colorado Supreme Court issued its decision in *People v. Moreno*, 2022 CO 15 (Colo. 2022), holding that a portion of the State statutory language defining criminal harassment is unconstitutionally overbroad on its face; and

WHEREAS, Code Sec. 15-28 includes the same language invalidated by the *Moreno* decision; and

WHEREAS, the Council therefore finds that it is necessary and prudent to amend Code Sec. 15-28 to remove the unconstitutionally overbroad language.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO:

Section 1. Section 15-28 of the Code, concerning harassment, is hereby amended through the deletion of the struck through language to read in its entirety as follows:

15-28 Harassment.

(a) A person commits the crime of harassment if, with intent to harass, annoy or alarm another person, he or she:

- (1) Strikes, shoves, kicks or otherwise touches a person or subjects him or her to physical contact;
- (2) In a public place directs obscene language or makes an obscene gesture to or at another person;
- (3) Follows a person in or about a public place;
- (4) Initiates communication with a person, anonymously or otherwise, by telephone, telephone network, data network, text message, instant message, computer, computer network, or computer system in a manner intended to ~~harass or~~ threaten bodily injury or property damage, or makes any comment, request, suggestion, or proposal by telephone, computer, computer network,

or computer system that is obscene;

(5) Makes a telephone call or causes a telephone to ring repeatedly, whether or not a conversation ensues, with no purpose of legitimate conversation;

(6) Makes repeated communications at inconvenient hours that invade the privacy of another and interfere in the use and enjoyment of another's home or private residence or other private property; or

(7) Repeatedly insults, taunts or challenges, or makes communications in offensively coarse language to, another in a manner likely to provoke a violent or disorderly response.

(b) As used in this section, unless the context otherwise requires, obscene means a patently offensive description of ultimate sexual acts or solicitation to commit intimate sexual acts, whether or not the ultimate sexual acts are normal or perverted, actual or simulated, including masturbation, cunnilingus, fellatio, anilingus or excretory functions.

(c) Any act prohibited by subsection (a)(5) of this section 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.

Section 2. Should any section, clause, phrase, or provision of this ordinance be ruled invalid or unenforceable by any court of competent jurisdiction, it is hereby declared the intent of the Town Council of the Town of Mt. Crested Butte, Colorado, that the remaining provisions of this ordinance be given full force and effect if it is possible to do so.

Section 3. Effective Date. This ordinance shall take effect five days after publication following final passage, pursuant to Section IV.I of the home rule charter.

INTRODUCED, READ, APPROVED, AND ORDERED PUBLISHED on first reading at a regular meeting of the Town Council of the Town of Mt. Crested Butte, Colorado, this 21st day of October, 2025.

PASSED, ADOPTED, AND APPROVED ON SECOND READING at a regular meeting of the Town Council of the Town of Mt. Crested Butte, Colorado, held the 18th day of November, 2025.

TOWN OF MT. CRESTED BUTTE, COLORADO

By: Nicholas Kempin, Mayor

ATTEST:

Tiffany O'Connell, Town Clerk