

ORDINANCE NO. 07-21

AN ORDINANCE of the City of Richland amending Richland Municipal Code Section 9.04.085 related to cyberstalking.

WHEREAS, the City has need, from time to time, to update the Richland Municipal Code to bring it into alignment with state or federal law; and

WHEREAS, on March 8, 2021, Division I of the Washington State Court of Appeals ruled in *State v. Mireles* that it was necessary to strike the term “embarrass” from RCW 9.61.260 in order to preserve the constitutionality of the statute; and

WHEREAS, the City’s local ordinance related to cyberstalking mirrors state law, and includes the term “embarrass”; and

WHEREAS, amendment to remove the word “embarrass” is necessary to ensure the constitutionality of RMC 9.04.085.

NOW, THEREFORE, BE IT ORDAINED by the City of Richland as follows:

Section 1. Richland Municipal Code Section 9.04.085, as first enacted by Ordinance No. 29-20, is hereby amended to read as follows:

9.04.085 Cyberstalking.

A. A person is guilty of cyberstalking if he or she, with intent to harass, intimidate, or torment, ~~or embarrass~~ any other person, and under circumstances not constituting telephone harassment, makes an electronic communication to such other person or a third party:

1. Using any lewd, lascivious, indecent, or obscene words, images, or language, or suggesting the commission of any lewd or lascivious act;
2. Anonymously or repeatedly, whether or not conversation occurs; or
3. Threatening to inflict injury on the person or property of the person called or any member of his or her family or household.

B. Cyberstalking is a gross misdemeanor, except as provided in subsection (C) of this section.

C. Cyberstalking is a class C felony if either of the following applies:

1. The perpetrator has previously been convicted of the crime of harassment, as defined in RCW 9A.46.060, with the same victim or a member of the victim’s family or household

or any person specifically named in a no-contact order or no-harassment order in this or any other state; or

2. The perpetrator engages in the behavior prohibited under subsection (A)(3) of this section by threatening to kill the person threatened or any other person.

D. Any offense committed under this section may be deemed to have been committed either at the place from which the communication was made or at the place where the communication was received.

E. For purposes of this section, "electronic communication" means the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means. "Electronic communication" includes, but is not limited to, electronic mail, internet-based communications, pager service, and electronic text messaging.

Section 2. This Ordinance shall take effect the day following its publication in the official newspaper of the City of Richland.

Section 3. Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, that decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

Section 4. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance, including but not limited to the correction of scrivener's errors/clerical errors, section numbering, references, or similar mistakes of form.

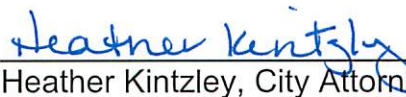
PASSED by the City Council of the City of Richland, Washington, at a regular meeting on the 20th day of April, 2021.


Ryan Lukson, Mayor

Attest:


Jennifer Rogers, City Clerk

Approved as to form:


Heather Kintzley, City Attorney

Date Published: April 25, 2021