

BILL NO. 07-134

ORDINANCE NO. 1228

AN ORDINANCE OF THE CITY OF DARDENNE PRAIRIE, MISSOURI AMENDING SECTION 210.005; DELETING SECTION 210.030 IN ITS ENTIRETY; ENACTING IN LIEU THEREOF A NEW SECTION 210.030; AND PROVIDING FOR THE OFFENSES OF HARASSMENT AND CYBER-HARASSMENT WITHIN THE CITY OF DARDENNE PRAIRIE, MISSOURI.

WHEREAS, as the Internet and electronic communications become an ever more integral part of our personal and professional lives, people can take advantage of the ease of communications as well as increased access to personal information to harm another person; and

WHEREAS, the ease of use and non-confrontational, impersonal, and sometimes anonymous nature of Internet and electronic communications may remove disincentives to the conduct of harassment and intimidation; and

WHEREAS, harassment and stalking by means of use of the Internet or other electronic communications (hereinafter respectively, "cyber-harassment" and "cyber-stalking") is and continues to be a growing problem, *see e.g.*, U.S. DEPARTMENT OF JUSTICE 1999 REPORT ON CYBERSTALKING: A NEW CHALLENGE FOR LAW ENFORCEMENT AND INDUSTRY (August 1999), *available at* <http://www.usdoj.gov/criminal/cybercrime/cyberstalking.htm> [hereinafter "1999 REPORT ON CYBERSTALKING"]; and

WHEREAS, being the victim of cyber-harassment of cyber-stalking undoubtedly causes considerable anxiety as well as annoyance, Ellison, L., & Akdeniz, Y., "Cyber-stalking: the Regulation of Harassment on the Internet," [1998] *Criminal Law Review*, December Special Edition: Crime, Criminal Justice and the Internet, pp 29-48; and

WHEREAS, the Board of Aldermen of the City of Dardenne Prairie, Missouri, find and determine that it is necessary for the health, safety and general welfare of the residents of the City to prohibit cyber-harassment;

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF DARDENNE PRAIRIE, MISSOURI, AS FOLLOWS:

SECTION 1. That Section 210.005 of the Municipal Code of the City of Dardenne Prairie, Missouri, be and is hereby amended by the addition of the following defined terms:

COURSE OF CONDUCT: a pattern of conduct composed of a series of acts over a period of time, however short, evidencing continuity of purpose. Constitutionally protected activity is not included within the

meaning of “course of conduct.” Such constitutionally protected activity includes picketing or other organized protests.

HARASS: to engage in a course of conduct that serves no legitimate purpose and would cause a reasonable person to suffer substantial emotional distress, and shall actually cause substantial emotional distress, or, when the course of conduct consists of contact by a person over age eighteen with a person under the age of eighteen that would cause a reasonable parent to fear for the well-being of their minor child who is the target of the contact.

ELECTRONIC COMMUNICATIONS DEVICE: any instrument, equipment, machine, or other device that facilitates telecommunication, including, but not limited to, a computer, computer network, computer chip, computer circuit, scanner, telephone, cellular telephone, pager, personal communications device, transponder, receiver, radio, modem, or device that enables the use of a modem.

SECTION 2. That Section 210.030 of the Municipal Code of the City of Dardenne Prairie, Missouri, be and is hereby deleted in its entirety, and enacting, in lieu thereof, a new Section 210.030, which shall read as follows:

A. Harassment.

A person commits the offense of harassment if for the purpose of frightening or disturbing another person he/she:

1. Communicates in writing or by telephone a threat to commit any felony;
2. Makes a telephone call or communicates in writing and uses coarse language offensive to one of average sensibility;
3. Make a telephone call anonymously; or
4. Makes repeated telephone calls.

B. Cyber-Harassment.

A person commits the offense of cyber-harassment if he/she:

1. A person commits the offense of cyber-harassment if he/she, with intent to harass, alarm, annoy, abuse, threaten, intimidate, torment or embarrass any other person, and under circumstances not constituting harassment as described in paragraph A of this Section, transmits or causes the transmission of an electronic communication, or knowingly permits an electronic communication to be

transmitted from an electronic communication device under the person's control to such other person or a third party:

- a. using any lewd, lascivious, indecent or obscene words, images or language, or suggesting the commission of any lewd or lascivious act;
- b. anonymously or repeatedly whether or not conversation occurs; or
- c. threatening to inflict injury on the person or property of the person communicated with or any member of his or her family or household.

2. No person shall make or cause to be made an electronic communication, or permit an electronic communication to be made from a electronic communications device under the person's control, with the intent to harass, alarm, annoy, abuse, threaten, intimidate, torment or embarrass any other person either by the direct action of the person initiating the communication or through the actions of a third party, which third party actions are instigated, initiated, prompted or brought about by the person's communication.

C. 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.

D. This Section shall not apply to activities regulated by the National Labor Relations Act, as amended, the Railway Labor Act, as amended, or the Federal Employment Labor Management Act, as amended.

E. For purposes of this section, "electronic communication" means the origination, emission, dissemination, transmission, or reception of data, images, signals, sounds, or other intelligence or equivalence of intelligence of any nature over any communications system by any method, including, but not limited to, a fiber optic, electronic, magnetic, optical, digital, or analog method. By way of example, "electronic communication" includes, but is not limited to:


1. electronic mail;
2. internet-based communications;
3. pager service; and
4. electronic text messaging.

SECTION 3. Savings. Except as expressly set forth herein, nothing contained in this Ordinance shall in any manner be deemed or construed to alter, modify, supersede, supplant or otherwise nullify any other Ordinance of the City or the requirements thereof whether or not relating to or in manner connected with the subject matter hereof.

SECTION 4. Severability. If any term, condition, or provision of this Ordinance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective and each and every remaining provision hereof shall be valid and shall be enforced to the fullest extent permitted by law, it being the intent of the Board of Aldermen that it would have enacted this Ordinance without the invalid or unenforceable provisions. In the event of a subsequent change in applicable law so that the provision which had been held invalid is no longer valid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding.

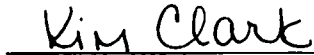
SECTION 5. Effective Date. This Ordinance shall be in full force and take effect from and after the date of its final passage and approval.

Read two times, passed, and approved this **21st** day of **November, 2007.**



As Presiding Officer and as Mayor

Attest:



City Clerk

Approved this **21st** day of **November, 2007.**



Mayor

Attest:



City Clerk