

**BY AUTHORITY**

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2016

COUNCIL BILL NO. 16-0548  
COMMITTEE OF REFERENCE:  
Governance and Charter Review

**A BILL**

For an ordinance amending 38-158 the Denver Revised Municipal Code to clarify the behaviors which are indicative of someone trying to engage in acts that further the practice of prostitution.

**WHEREAS**, subsection (1) of the Denver Revised Municipal Code, Section 38-158, makes it unlawful to solicit another person for the purpose of prostitution; and

**WHEREAS**, subsection (6) of the Denver Revised Municipal Code, Section 38-158, makes it unlawful by word, gesture or action, to endeavor to further the practice of prostitution in any place; and

**WHEREAS**, subsection (6) of the Denver Revised Municipal Code, Section 38-158 was found unconstitutional by the Denver County Court; and

**WHEREAS**, the purpose of this ordinance is to make clear that acts which seek to uncover whether a person is a police officer in the context of engaging in acts that further the practice of prostitution are criminal.

**NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

**Section 1.** That section 38-158, D.R.M.C. concerning the solicitation of another person for the purpose of prostitution shall be amended by deleting subsection (A)(6) and adding to subsection (A)(1) the underlined language, and by renumbering subsections (7) and (8) to subsections (6) and (7), to read as follows:

**Sec. 38-158. Prostitution.**

**(A) It shall be unlawful for any person:**

~~(1) To solicit another person for the purpose of prostitution;~~

(1) Knowingly to solicit, induce, entice, or otherwise engage another person for the

1 purpose of obtaining an offer or an agreement for any act of prostitution. Evidence of  
2 such illegal conduct includes, but is not limited to the following:

3 In the context of discussing sexual acts, money, or other thing of value:

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- 5 (a) Inquiring about whether a person is a police officer;  
6 (b) Searching for articles that would identify a person as a police officer;  
7 (c) Requesting a person to perform acts to prove that the person is not a police  
8 officer, including, but not limited to:

9 (i) The touching or exposure of genitals or female breasts; or

10 (ii) The consumption or use of alcohol, marijuana, or illegal controlled substances.

11 (2) To arrange or offer to arrange a meeting of or to procure persons for the purpose of  
12 prostitution;

13 (3) To direct another person to a place knowing such direction is for the purpose of  
14 prostitution;

15 (4) Knowingly to arrange or offer to arrange a situation in which a person may practice  
16 prostitution;

17 (5) To have or exercise or control the use of any facility, and:

18 a. Knowingly to grant or permit the use of such facility for the purpose of  
19 prostitution; or

20 b. Knowingly to permit the continued use of such facility for the purpose of  
21 prostitution, after becoming aware of facts or circumstances from which such  
22 person should reasonably know that such facility is being used for purposes of  
23 prostitution;

24 ~~(6) By word, gesture or action, to endeavor to further the practice of prostitution in any~~  
25 ~~place:~~

26 ~~(7) (6) To perform, offer or agree to any act of prostitution;~~

27 ~~(8) (7) To enter or remain in a house of prostitution with the intent to engage in an act~~  
28 ~~of prostitution.~~

29 (B) Persons convicted of violating and persons pleading guilty or nolo contendere  
30 to violation of subsection (A) shall, in addition to any sentence of jail time, pay a  
31 fine of five hundred dollars (\$500.00) for the first offense; seven hundred fifty  
32 dollars (\$750.00) for the second offense within five (5) years; and nine hundred  
33 ninety-nine dollars (\$999.00) for the third and subsequent offenses. No part of  
34 the minimum fine may be suspended, however, the court may order a person

1 convicted of violating subsection (A) to perform useful public service, and credit  
2 the dollar amount earned through such public service toward payment of the  
3 minimum fine owed. The person shall be paid at the standard hourly rate for  
4 such public service as established by the rules and regulations of the court.  
5 Useful public service shall be considered work which is beneficial to the public  
6 and which involves a minimum of public cost.

7 (C) The police shall immediately notify the manager of environmental health of  
8 persons charged with violations of this section, and the manager shall order a  
9 medical examination pursuant to section 24-131 of the Revised Municipal Code.

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12 COMMITTEE APPROVAL DATE: August 4, 2016 (consent).

13 MAYOR-COUNCIL DATE: August 9, 2016.

14 PASSED BY THE COUNCIL \_\_\_\_\_ 2016

15 \_\_\_\_\_ - PRESIDENT

16 APPROVED: \_\_\_\_\_ - MAYOR \_\_\_\_\_ 2016

17 ATTEST: \_\_\_\_\_ - CLERK AND RECORDER,  
18 EX-OFFICIO CLERK OF THE  
19 CITY AND COUNTY OF DENVER  
20

21 NOTICE PUBLISHED IN THE DAILY JOURNAL \_\_\_\_\_ 2016; \_\_\_\_\_ 2016

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23 PREPARED BY: Emela Jankovic, Asst. City Attorney; DATE: August 11, 2016  
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25 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the  
26 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed  
27 ordinance. The proposed ordinance **is not** submitted to the City Council for approval pursuant to §  
28 3.2.6 of the Charter.  
29

30 Denver City Attorney

31 BY: \_\_\_\_\_, Assistant City Attorney Date: August 11, 2016