



City of Chicago



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Office of the City Clerk

Document Tracking Sheet

Meeting Date:	10/16/2019
Sponsor(s):	Lopez (15)
Type:	Ordinance
Title:	Amendment of Municipal Code Section 8-4-127 concerning cyberstalking and cyber-flashing
Committee(s) Assignment:	Committee on Public Safety

ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. Section 8-4-127 of the Municipal Code of Chicago is hereby amended by deleting the language struck through and by inserting the language underscored, as follows:

8-4-127 Cyberstalking and cyber-flashing ordinance.

(a) *Definitions.* For purposes of this ~~chapter~~ Section, the following definitions shall apply:

(1) “Harass” means to engage in a knowing and willful course of conduct directed at a specific person that alarms, torments or terrorizes that person.

(2) “Electronic communication” means any transfers of signs, signals, writings, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectric or photo-optical system.

(3) “Electronic communication” includes transmissions by a computer through the Internet to another computer.

(4) “Family or household member” includes spouses, former spouses, parents, children, stepchildren and other persons related by blood or by present or prior marriage, persons who shared or formerly shared a common dwelling, persons who have or allegedly share a blood relationship through a child, persons who have or have had a dating or engagement relationship, and persons with disabilities and their personal assistants. For purposes of this ordinance neither a casual acquaintanceship nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute a dating relationship.

(5) “Cyber-flashing” means to knowingly and without lawful justification send an intimate image to another person through the use of data-dropping technology without the request or express consent of the person.

(6) “Data-dropping technology” means technology that enables the transfer of files, including, but not limited to, pictures, videos, or texts, using wireless local

area networking devices to cellular telephone users located within close proximity with the sender. The term "data-dropping technology" does not include transferring of files through e-mail, telephone text messaging, or by posting on social media networks.

(7) "Intimate image" means any image that depicts: (a) less than completely and opaquely covered: (i) human genitals, anus, perineum and pubic region, (ii) buttock and (iii) female breast below a point, immediately above the top of the areola; and (b) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(b) *Cyberstalking.* No person shall cyberstalk another. Cyberstalking is an act committed when one knowingly and without lawful justification, on at least two (2) separate occasions, harasses another person through the use of electronic communication and:

(1) At any time transmits a threat of immediate or future bodily harm, sexual assault, confinement, or restraint and the threat is directed towards that person or a family member of that person, or

(2) Places that person or a family member of the person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement or restraint.

(c) *Cyber-flashing.* No person shall engage in cyber-flashing.

(d) *Violation and penalty.* Any person who violates this section ordinance, upon conviction thereof, shall be punished by a fine of no more than \$500.00 for the first offense. Subsequent convictions ~~for cyberstalking~~ shall be punished by a fine of no more than \$1,000.00. In addition to such fines, any such offense may also be punished as a misdemeanor by incarceration in a penal institution other than a penitentiary for a term of up to ninety (90) days or by a requirement to perform up to 1,500 hours of community service under the procedures set forth in Section 1-2-1.1 of the Illinois Municipal Code, as amended, and in the Illinois Code of Criminal Procedure of 1963, as amended, in a separate proceeding. All actions seeking the imposition of fines only shall be filed as quasi-criminal actions subject to the provisions of the Illinois Code of Civil Procedure, as amended.

(e) *Construction.* Nothing in this Section shall be construed to impose liability upon the following entities solely as a result of content or information provided by another person:

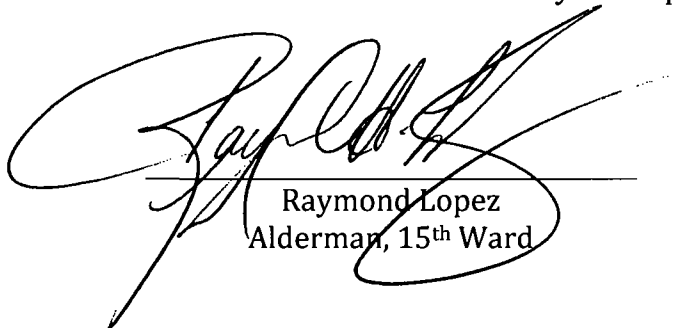
(1) an interactive computer service, as defined in 47 U.S.C. 230(f)(2);

(2) a provider of public mobile services or private radio services, as defined in Section 13-214 of the Public Utilities Act, codified at 220 ILCS 5/13-214; or

(3) a telecommunications network or broadband provider.

SECTION 2. (d) — Severability. If any provision, clause, sentence, paragraph, ~~section~~ or part of this ~~chapter~~ Ordinance or application thereof to any person or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this ~~chapter~~ Ordinance and the application of such provision to other persons or circumstances, but shall be confined in its operation to the provision, clause, sentence, paragraph, ~~section~~, or part thereof already involved in the controversy in which such judgment have been rendered and to the person and circumstances affected thereby.

SECTION 3. This ordinance shall take effect 30 days after passage and publication.



Raymond Lopez
Alderman, 15th Ward