



# City of Chicago



SO2019-8026

Office of the City Clerk

## Document Tracking Sheet

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

**SUBSTITUTE**  
**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 body parts" means the genitals, pubic area or anus of any individual.

(8) "Intimate image" means a photograph, film, videotape, recording or any other reproduction of an image of an individual with fully or partially exposed intimate body parts or engaged in sexual activity.

(9) "Sexual activity" means: (i) human genitals in a state of sexual stimulation or arousal; (ii) acts of human masturbation, sexual intercourse or sodomy; or (iii) fondling or other erotic touching of intimate body parts.

(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).

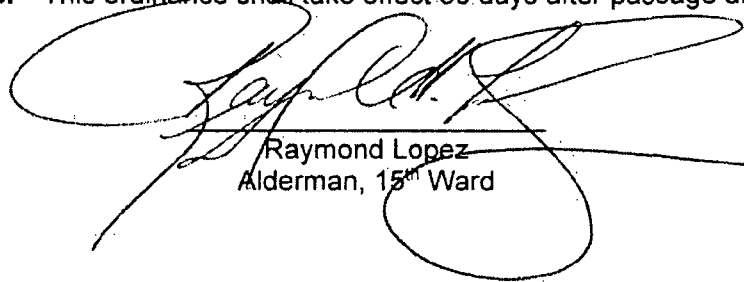
(2) a provider of public mobile services or private radio services, as defined in Section 13-214 of the Public Utilities Act, codified at 220 ILCS 5/13-214; or

(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, 15<sup>th</sup> Ward