

ORDINANCE NO. 2018 - \_\_\_\_

FOR AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF AURORA, COLORADO, BY ADDING A SECTION, TO BE NUMBERED 94-350, REGARDING POSTING, POSSESSION, OR EXCHANGE OF A PRIVATE IMAGE BY A JUVENILE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

Section 1. That the city Code of the City of Aurora, Colorado, is hereby amended by adding a section, to be numbered 94-350, which sections reads as follows:

**Sec. 94-350. Posting, Possession, or Exchange of a Private Image by a Juvenile.**

- (a) It shall be unlawful for a juvenile, through digital or electronic means, or any other medium to include, but not limited to, printed images, to knowingly possess a sexually explicit image of another juvenile, or to knowingly distribute, display, or publish a sexually explicit image of himself or herself, or of another juvenile.
- (b) For the purpose of this section, “juvenile” means a person who is under the age of 18 years old at the time of the offense.
- (c) For the purpose of this section, a “sexually explicit image” means any electronic or digital photograph, video, or video depiction of the external genitalia or perineum or anus or buttocks or pubes of any person or the breast of a female person. “Sexually explicit image” does not include any electronic or digital photograph, video, or video depiction of the breast of a female person when that person is breastfeeding a child.
- (d) It is an affirmative defense to the crime charged if the juvenile:
  - 1. Did not solicit, request, participate in or encourage the making of the image,
  - 2. Did not transmit or distribute the image or images, and
  - 3. Took reasonable steps to destroy or delete the image(s), or report the receipt of the image(s) to law enforcement or school officials, shortly after receipt of the image(s). While not dispositive of the juvenile’s reasonable steps, destruction or deletion of the image within 72 hours of receipt will be sufficient proof of the portion of the affirmative defense provided for in subsection (d)(3), provided the juvenile did not in any way transmit, distribute or publish the image.
- (e) It is an aggravating factor to the crime charged if the juvenile, whether or not the juvenile solicited, requested, participated in or encouraged the making of the image, utilizes the image(s) in any manner intended to harass, annoy, embarrass, or injure another person.

(f) A violation may be subject to the penalties as provided in section 1-13 of the City Code. The Municipal Court may also offer the opportunity to participate in a diversion program established or formally endorsed by the County or by the City.

Section 2. All ordinances or parts of ordinances of the City Code of the City of Aurora, Colorado, in conflict herewith are expressly repealed.

Section 3. Pursuant to Section 5-5 of the Charter of the City of Aurora, Colorado, the second publication of this ordinance shall be by reference, utilizing the ordinance title. Copies of this ordinance are available at the office of the City Clerk.

INTRODUCED, READ AND ORDERED PUBLISHED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

PASSED AND ORDERED PUBLISHED BY REFERENCE this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

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STEPHEN D. HOGAN, Mayor

ATTEST:

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LINDA S. BLACKSTON, City Clerk

APPROVED AS TO FORM:

  
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NANCY C. RODGERS, Sr. Assistant City Attorney