

Submitted by: Acting Chair of the Assembly at the
Request of the Acting Mayor
Prepared by: Dept. of Law
For reading: _____ (always blank)

ANCHORAGE, ALASKA
AO No. 2021-_____

1 **AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE TITLE 8 TO**
2 **UPDATE ABUSE OF A CHILD OR VULNERABLE ADULT IN SECTION 8.10.030,**
3 **HARASSMENT IN SECTION 8.10.110, AND CRIMINAL MISCHIEF IN SECTION**
4 **8.20.010.**
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7 **WHEREAS**, Anchorage Municipal Code Title 8 houses Anchorage’s Penal Code
8 and is needing updates—partly due to the passage of time and also due to feedback
9 from the Alaska Court of Appeals and prosecutors, all meant to enable the Municipal
10 Prosecutor’s Office to prosecute more effectively;
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12 **WHEREAS**, this ordinance amends three sections of Title 8: AMC 8.10.030, Abuse
13 of a Child or Vulnerable Adult; AMC 8.10.110, Harassment; and AMC 8.20.010,
14 Criminal Mischief;
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16 **WHEREAS**, the first change is to AMC 8.10.030 and is responsive to Alaska Court
17 of Appeals decision *Beagley v. Anchorage*, 2015 WL 4599602 (Alaska App. July 29,
18 2015) (the case is unpublished and attached as Attachment A);
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20 **WHEREAS**, in *Beagley*, the Court of Appeals noted that AMC 8.10.030 could be
21 read to explicitly permit torture if the torture is part of “reasonable parental
22 discipline,” this change closes that loophole;
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24 **WHEREAS**, this ordinance also amends AMC 8.10.030 to remove affirmative
25 defense language which the Court of Appeals also criticized and is already available
26 to defendants via Alaska Statute 11.81.430;
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28 **WHEREAS**, the second section of this ordinance is regarding AMC 8.10.110,
29 Harassment, and broadens the variety of behaviors which can be prosecuted under
30 municipal code by closing loopholes (e.g. making it a crime to directly touch genitals
31 rather than it only being a crime to do so through clothing)
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33 **WHEREAS**, this ordinance also updates language (e.g. adding “images” and “video”
34 to list of media);
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36 **WHEREAS**, the last amendment is to AMC 8.20.010 and lessens the requisite intent
37 required to prosecute Criminal Mischief, lowering the burden on prosecutors and
38 making it easier to prosecute; now, therefore,
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40 **THE ANCHORAGE ASSEMBLY ORDAINS:**
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42 **Section 1.** Anchorage Municipal Code section 8.10.030 is hereby amended to
43 read as follows:

8.10.030 - Abuse of a child or vulnerable adult.

A. It is unlawful for any person to commit child abuse or abuse of a vulnerable adult.

B. A person commits child abuse or abuse of a vulnerable adult if the person recklessly causes or permits a child or a vulnerable adult to be physically injured, or negligently causes or permits a child or vulnerable adult to be tortured, cruelly confined, or cruelly punished.

[A PERSON COMMITS CHILD ABUSE OR ABUSE OF A VULNERABLE ADULT IF THE PERSON INTENTIONALLY, KNOWINGLY, RECKLESSLY, OR NEGLIGENTLY CAUSES OR PERMITS A CHILD OR VULNERABLE ADULT TO BE TORTURED; CRUELLY CONFINED; CRUELLY PUNISHED OR PHYSICALLY INJURED.]

C. In this section, "vulnerable adult" has the meaning in AS 47.24.900. All words and phrases in this section that are defined therein shall have the meaning set forth in AS 47.24.900.

[D. IT IS AN AFFIRMATIVE DEFENSE TO ABUSE OF A CHILD IN SUBSECTION B. THAT THE ACTION WAS TAKEN AS "REASONABLE PARENTAL DISCIPLINE."

E. "REASONABLE PARENTAL DISCIPLINE" IS ACTION TAKEN FOR THE PURPOSE OF SAFEGUARDING THE CHILD OR PROMOTING THE CHILD'S MORAL, SOCIAL, OR CULTURAL WELFARE. FACTORS TO BE CONSIDERED IN DETERMINING WHETHER THE ACTION CONSTITUTED REASONABLE PARENTAL DISCIPLINE ARE:

1. AGE OF THE CHILD;
2. CONDITION OF THE CHILD;
3. TYPE OF MISCONDUCT;
4. KIND OF PUNISHMENT INFLICTED;
5. DEGREE OF HARM OR PAIN TO THE CHILD;
6. OPTIONS THAT EXISTED;
7. APPARENT MOTIVE OF THE PARENT; AND
8. CULTURAL PERSPECTIVE OF THE PARTIES.

F. ACTIONS WHICH ARE PRIMA FACIE UNREASONABLE ARE:

1. SCALDING, BRANDING, OR BURNING OF A CHILD;
2. INJURIES THAT REQUIRE OR REASONABLY SHOULD HAVE REQUIRED MEDICAL TREATMENT;
3. WITHHOLDING OF FOOD FOR MORE THAN ONE MEAL; 4. INJURIES LOCATED ON MULTIPLE BODY SITES;
5. CONDUCT LIKELY TO CAUSE SERIOUS OR PERMANENT HARM;
6. CONDUCT THAT IS SIGNIFICANTLY DISPROPORTIONATE;
7. CONDUCT DESIGNED TO TORTURE OR CRUELLY PUNISH;
8. INJURIES TO FACE OR HEAD; AND
9. SHAKING A CHILD UNDER FIVE YEARS OF AGE.

G.] D. Violation of this section is a class A misdemeanor.

(CAC 8.47.010; AO No. 98-59(S), § 1, 5-19-98; AO No. 2000-95, § 1, 10-16-00; AO No. 2003-73, § 3, 4-22-03; AO No. 2014-42, § 1, 6-21-14)

State Law reference— Endangering the welfare of a child, AS 11.51.100; justification, AS 11.81.430; child protection, AS 47.17.010.

Section 2. Anchorage Municipal Code section 8.10.110 is hereby amended to read as follows:

8.10.110 - Harassment.

A. It is unlawful for any person, with reckless disregard for any harassing or annoying effect on [INTENT TO HARASS OR ANNOY] another person, to:

1. Insult, taunt, or challenge another person in a manner likely to provoke an immediate violent response;
2. Except as provided in chapter 8.50, publish or distribute, or threaten to publish or distribute, electronic or printed photographs, pictures, images, videos, or films that show the genitals, anus, or female breast of the other person or show that person engaged in a sexual act;
3. Subject another person to offensive physical contact;
4. Subject another person to unwanted or offensive physical

1 contact and the unwanted or offensive physical contact is
2 touching directly or through the clothing another person's
3 genitals, buttocks, or female breast; or
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5 5. Subject another person to offensive physical contact and the
6 offensive physical contact is contact with human or animal
7 blood, mucus, saliva, semen, urine, vomitus, or feces.
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9 B. Violation of subsections A.1. or [THROUGH] A.3. is a class B
10 misdemeanor. Violation of subsection A.2., A.4. or A.5. is a class A
11 misdemeanor.
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13 (AO No. 2014-42, § 1, 6-21-14)
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15 **Section 3.** Anchorage Municipal Code section 8.20.010 is hereby amended to
16 read as follows:
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18 **8.20.010 - Criminal mischief.**
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20 A. It is unlawful for any person, having no right to do so or any reasonable
21 ground to believe the person has such a right, to
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23 1. Damage property of another in an amount of \$50.00 or more
24 [WITH INTENT TO DO SO]; or
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26 2. Tamper with a fire protection device in a building that is in a
27 public place; or
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29 3. Knowingly access a computer, computer system, computer
30 program, computer network, or part of a computer system or
31 network; or
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33 4. Uses a device to descramble an electronic signal that has been
34 scrambled to prevent unauthorized receipt or viewing of the
35 signal unless the device is used only to descramble signals
36 received directly from a satellite or unless the person owned
37 the device before September 18, 1984; or
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39 5. Knowingly remove, relocate, deface, alter, obscure, shoot at,
40 destroy, or otherwise tamper with an official traffic control
41 device or damage the work upon a highway under construction;
42 or
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44 6. With reckless disregard for the risk of harm to or loss of the
45 property or with intent to cause substantial inconvenience to
46 another, tamper with the property of another; or
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48 7. Damage property of another in an amount of less than \$50
49 [WITH INTENT TO DO SO]; or
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8. Ride in a propelled vehicle with criminal negligence that it has been stolen or that it is being used in violation of AS 11.46.360 or AS 11.46.365(a)(1).

B. Violation of subsections A.1_ through A.5_ above is a class A misdemeanor.

C. Violation of subsections A.6_ through A.8_ above is a class B misdemeanor.

(AO No. 2014-42, § 1, 6-21-14; AO No. 2017-131 , § 1, 10-10-17)

Section 4. This ordinance shall be effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this _____ day of _____, 2021.

Acting Chair of the Assembly

ATTEST:

Municipal Clerk

