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**ORDINANCE NO. 23-007**  
**AN ORDINANCE AMENDING Chapter 365 PEACE AND ORDER**  
**OF THE CODE OF ORDINANCES OF**  
**THE CITY OF OCONTO FALLS**  
**July 11, 2023**

The Common Council of the City of Oconto Falls, Oconto County, Wisconsin, does ordain that the Code of Ordinances of the City of Oconto Falls are amended to read as follows:

**Chapter 365 Peace and Order**

**365-27 Sexting by Minors Prohibited.**

[Added 7.11.2023 by Ord. No. 23-007]

(a) *Definitions.*

- (1) "Nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering or the showing of the female breast with less than a fully opaque covering or any portion thereof below the top of the areola. A mother's breast feeding of her baby does not constitute "nudity" irrespective of whether or not the nipple is covered during or incidental to feeding.
- (2) "Harmful to Minors" means any reproduction, imitation, characterization, description, exhibition, presentation or representation, of whatever kind of form, depicting nudity, sexual conduct, or sexual excitement when it:
  - a. Predominately appeals to prurient, shameful, or morbid interest;
  - b. Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material or conduct for minors; and
  - c. Taken as a whole, is without serious literary, artistic, political or scientific value for minors.
- (3) "Minor" means any person under the age of eighteen (18) years.

(B) *Prohibited Acts.* A minor commits the offense of sexting by knowingly:

- (1) Using any device capable of electronic data transmission or distribution to transmit or distribute to another minor any image, recording, text, correspondence, message or other substantially similar form of communication, of any person that depicts nudity and is harmful to minors.
- (2) Possessing any image, recording, text, correspondence, message or other substantially similar form of communication that was transmitted or distributed by another minor that depicts nudity and is harmful to minors.
- (3) Soliciting the transmission of distribution of any image, recording, text, message or other substantially similar form of communication from another minor that would itself be prohibited under this Section.

(C) *Exceptions.* A minor does not violate this ordinance [section] if all of the following apply:

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- (1) The minor did not solicit the photograph or video;
  - (2) The minor took reasonable steps to report the photograph or video to a school or law enforcement official; and
  - (3) The minor did not transmit or distribute the photograph or the video to a third party, other than for requested reporting purposes to a school or law enforcement official.
- (D) *Penalty.* Violation of this Section by a person under the age of eighteen (18) years shall be subject to a forfeiture of not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00). Additionally, the juvenile may be required to surrender to law enforcement the electronic device utilized in the violation of this Section. Nothing in this Section shall prevent the juvenile to additionally be subjected to punishment according to Wis. Stats. Ch. 938.
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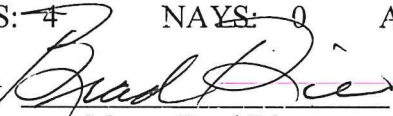
Effective Date. This Ordinance shall be effective upon passage by City Council and publication as required by law. The City of Oconto Falls Code of Ordinances is amended.

City Council Hereby Adopts City of Oconto Falls Ordinance 23-007, Amend Chapter 365 Peace and Order in the Code of Ordinances of the City of Oconto Falls. On this 11th Day of July, 2023.

STATE OF WISCONSIN, COUNTY OF OCONTO

OFFERED BY COUNCIL PERSON: Bahrke  
SECONDED BY COUNCIL PERSON: Holman

AYES: 4      NAYS: 0      ABSENT: 2

Attest   
Mayor Brad Rice

Attest   
City Administrator Peter A. Wills

Date of Publication: Friday, July 21, 2023  
Oconto County Times Herald

Attest   
Deputy Clerk, Jenny Friedman

ADOPTED: 11th Day of July, 2023.      APPROVED: 11th Day of July, 2023

