

## Chapter 9.50 Sexting

### Sections:

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#### 9.50.010 Purpose and Intent

The Village of Oakfield has determined that the sharing of explicit images and related activities between minors represents a concern for the health, safety, welfare, peace and order to the citizens of the Village of Oakfield. Prohibiting sharing of explicit images and related activities between minors will serve to deter such activities within the Village.

#### 9.50.030 Definitions.

For the purpose of this section, the following terms shall have the meaning indicated:

“Harmful to minors” means any reproduction, imitation, characterization, description, exhibition, presentation, or representation of whatever kind or form, depicting nudity, sexual conduct, or sexual excitement when it:

- (a) Predominantly appeals to an indecent, shameful, or morbid interest;
- (b) Is blatantly offensive to prevailing standards in the adult community as a whole with respect to what is suitable material or conduct for minors;
- (c) Taken as a whole, is without serious literary, artistic, political, or scientific value for minors.

“Minor” means any person under the age of 18 years of age.

“Nudity” means the showing of the human male or female genitals, pubic area, or buttocks with less than a full opaque covering; or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple; or

the depiction of covering male genitals in a noticeably erect state. A mother's breastfeeding of her baby does not under any circumstances constitute “nudity,” irrespective of whether or not the nipple is covered during or incidental to feeding.

“Sexual conduct” means acts of masturbation, homosexuality, sexual intercourse, or physical contact with a person's clothes or unclothes genitals, pubic area, buttocks, or if such person be female, breast. If any of the following is done for the purpose of sexual humiliation, degradation, arousal, or gratification.

“Sexual excitement” means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

A minor commits the offense of sexting if he or she knowingly:

- A. Uses a computer, or any other device capable of electronic data transmission or distribution, to transmit or distribute to another minor any photograph or video of any person which depicts nudity, as defined in this section, and is harmful to minors as defined in this section.
- B. Possesses a photograph or video of any person that was transmitted or distributed by another minor which depicts nudity, as defined above, and is harmful to minors, as defined above. A minor does not violate this subsection if all of the following apply:
  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.
  3. The minor did not transmit or distribute the photograph or video to a third party other than a law enforcement official.

- C. Uses a computer, or any other device capable of electronic data transmission or distribution, to transmit or distribute to another minor any electronic message to include; text message, correspondence, message or electronic application data of a sexual nature when it:
  - 1. Predominantly appeals to an indecent, shameful, or morbid interest;
  - 2. Is blatantly offensive to prevailing standards in the adult community as a whole with respect to what is suitable material or conduct for minors;
  - 3. Taken as a whole, is without serious literary, artistic, political, or scientific value for minors.

**9.50.050 Enforcement; violations and penalties.**

A. Citation process. Juveniles may be cited by the citation process. A copy will be provided to the parent or legal guardian.

B. Penalties. Any person who violates this section shall be subject to a forfeiture as defined in Chapter 1. General Provisions. Violations in this Code and §§ 938.17(2), 938.343, 938.344 and 938.345, Wis. Stats. Nothing in this chapter shall prevent the law enforcement officer, in his/her discretion, from referring cases directly to the District Attorney's office. (Ord. dated 11-13-24)