

COMMON COUNCIL
CITY OF WAUPUN, WISCONSIN

ORDINANCE #2024-003

AN ORDINANCE TO AMEND CHAPTER EIGHT OF THE MUNICIPAL CODE OF THE CITY OF WAUPUN ENTITLED "ORDERLY CONDUCT"

THE COMMON COUNCIL OF THE CITY OF WAUPUN, DODGE AND FOND DU LAC COUNTY, WISCONSIN ORDAINS:

SECTION 1: Section 8.14 of the Municipal Code of the City of Waupun entitled "SEXTING BY MINORS RESTRICTED" is created as follows:

SECTION 8.14. SEXTING BY MINORS RESTRICTED.

(1) FINDINGS. The Common Council of the City of Waupun 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 City of Waupun, the Council has further determined that prohibiting sharing of explicit images and related activities between minors will serve to deter such activities within the City.

(2) DEFINITIONS. For the purposes of this Subsection:

(a) "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 of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a noticeably erect state. A mother's breastfeeding of her baby does not under any circumstance constitute "nudity," irrespective of whether or not the nipple is covered during or incidental to feeding.

(b) "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:

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.

(c) "Minor" means any person under the age of 18 years.

(3) RESTRICTIONS. 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 subsection, and is harmful to minors as defined in this subsection.

(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 paragraph if all of the following apply:

1. The minor did not solicit the photograph or video; and
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 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, including without limitation, a text message, correspondence, message or electronic application data of a sexual nature when it:

1. Predominantly appeals to an indecent, shameful, or morbid interest; and
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; and
3. Taken as a whole, is without serious literary, artistic, political, or scientific value for minors.

(d) Solicits the transmission or distribution of any text, correspondence, message, photograph or video from another minor that would itself be prohibited under this subsection.

(4) **PENALTIES.** Except as otherwise provided, the penalty for violation of any provision of this section shall be the penalty provided in 18.04 of this Municipal Code and as established by the municipal fee schedule established by the Waupun Common Council. Each violation and each day a violation continues shall constitute a separate offense. This section shall not preclude the City from maintain any appropriate action to prevent or remove a violation of this chapter.

SECTION 2: All Ordinances or portions of Ordinances inconsistent with this Ordinance are hereby repealed.

SECTION 3: This Ordinance shall be effective from and after its adoption and publication as required by law.

Adopted this 5th day of March, 2024.

Rohn W. Bishop
Mayor

ATTEST:

Angela J. Hull
City Clerk/Treasurer