

ORDINANCE 2020-09

CREATING SECTION 9.37 (Sexting) OF THE MUNICIPAL CODE OF THE CITY OF PRAIRIE DU CHIEN, CRAWFORD COUNTY, WISCONSIN

The Common Council of the City of Prairie du Chien, Crawford County, Wisconsin, do ordain as follows:

Section 1: That Section 9.37 of the Municipal Code of the City of Prairie du Chien, Wisconsin be created to read as follows:

9.37 Sexting

- (1) FINDINGS. The Common Council of Prairie du Chien 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 Prairie du Chien. 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:
 - 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.
 - (c) "Minor" means any person under the age of 18 years.
- (3) 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:
 - i. The minor did not solicit the photograph or video.
 - ii. The minor took reasonable steps to report the photograph or

video to a school or law enforcement official.

iii. 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:

i. Predominantly appeals to an indecent, shameful, or morbid interest;

ii. Is blatantly offensive to prevailing standards in the adult community as a whole with respect to what is suitable material or conduct for minors;

iii. 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 - Any person violating 9.37 shall be subject to a forfeiture of not less than \$100 nor more than \$500 for each violation. First offense - \$125 Second Offense - \$250 Third and subsequent offense - \$500

Section 2: Any Ordinance or parts thereof inconsistent herewith are hereby repealed.

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

Passed and approved this 6th day of October, 2020.

David Hemmer, Mayor

ATTEST:

Chad Abram, City Administrator

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Certification

I, Tina Fuller, am the duly qualified and acting City Clerk of the City of Prairie du Chien, Crawford County, Wisconsin. I hereby certify that the aforementioned is a true and exact reproduction of the original ordinance or resolution adopted by the Common Council.

IN WITNESS WHEREOF, I have executed this Certificate in my official capacity on the ____ of October, 2020.

(SEAL)

Tina Fuller
City Clerk