

232-11(E) Sexting

A. Sexting is not permitted within the City. A person commits the offense of sexting by knowingly:

- (1) Using any device capable of electronic data transmission to transmit to a minor any image or recording of nudity that is harmful to minors.
- (2) Possessing an image or recording that was transmitted or distributed by a minor that depicts nudity that is harmful to minors. A person does not violate this subsection if all the following apply:
 - (a) The person did not solicit the image or recording.
 - (b) The person took reasonable steps to report the image or recording to a school or law enforcement official.
 - (c) The person did not retransmit the image or recording to third party other than a law enforcement official.
- (3) Soliciting the transmission or distribution of any image or recording by a minor that depicts nudity that is harmful to minors.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

HARMFUL TO MINORS

The possession or electronic transmission of an image or recording depicting the nudity of a minor except when possessed or transmitted exclusively for recognized scientific or medical purposes.

MINOR

Any person less than 18 years of age.

NUDITY

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 discernibly turgid 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.

C. Application of section to first offenses only. No person shall be cited under the provisions of Subsection A who has previously been convicted under Subsection A, has been charged under a state statute prohibiting the same or similar conduct, or who has completed an educational course in lieu of citation or criminal charges relating to the same or similar conduct.