



MEMO

To: Common Council
From: Tim Greenwood, City Attorney
Date: June 16, 2026
Re: Repeal and Replacement of Municipal Code § 9.29 – Tobacco and Nicotine Products

Background Information:

Section 9.29 of the City of Kaukauna Municipal Code currently regulates the purchase, possession, and provision of cigarettes, tobacco products, and nicotine products by persons under the age of 18. Since adoption of the current ordinance, Wisconsin Statutes governing youth access to tobacco and nicotine products, as well as retailer obligations, have been amended, including Wisconsin Statutes §§ 254.92 and 134.66.

Wisconsin Stat. § 254.92 authorizes municipalities to regulate certain conduct related to the purchase, possession, and provision of cigarettes, tobacco products, and nicotine products by persons under 18 years of age; however, the statute expressly limits municipal authority by requiring that any such ordinance strictly conform to state law and prohibits municipalities from imposing additional or different regulations.

Wisconsin Stat. § 134.66 governs statewide restrictions on the sale of these products, including retailer compliance and training requirements.

PURPOSE OF THE ORDINANCE:

The proposed ordinance repeals and replaces Section 9.29 of the Municipal Code in order to satisfy the strict conformity requirement imposed by Wisconsin Stat. § 254.92, update definitions and terminology to reflect current statutes, and maintain consistency between local and state regulation of tobacco and nicotine products.

WHAT HAS CHANGED:

The proposed ordinance updates definitions to mirror current Wisconsin Statutes, providing clarity while maintaining strict conformity with state law. It aligns local regulation with Wis. Stat. § 254.92 by limiting regulation to the conduct expressly authorized by statute and expressly incorporates statewide sales restrictions and retailer obligations under Wis. Stat. § 134.66 rather than restating or duplicating those provisions. The ordinance also removes outdated or duplicative language that is no longer consistent with the current statutory framework and reflects the limitations placed on municipal regulation by state law.

WHAT HAS STAYED THE SAME:

Prohibitions on the underage possession, attempted purchase, and purchase of cigarettes, tobacco products, and nicotine products remain in place, as do prohibitions on

third-party purchasing or provision of these products to persons under 18. Existing statutory exceptions for retail employment and law-enforcement compliance investigations continue to apply, and law-enforcement authority to seize prohibited products is preserved. Penalties remain governed by applicable Wisconsin Statutes and are incorporated by reference.

EFFECT OF ADOPTION:

Adoption of the proposed ordinance does not expand or reduce enforcement authority beyond that provided under state law. Because Wisconsin Statutes require strict conformity in this area, the City is not permitted to enact additional or more restrictive regulations beyond those authorized by state law. The ordinance ensures that the City's regulations remain current, legally compliant, and consistent with Wisconsin Statutes governing tobacco and nicotine products.

Budget:

Adoption of the proposed ordinance is not anticipated to have a fiscal impact on the City. The ordinance updates and aligns existing regulations with current state law and does not create new programs, staffing requirements, or enforcement obligations.

RECOMMENDATION:

Staff recommends adoption of the proposed ordinance repealing and replacing Section 9.29. This will ensure compliance with applicable Wisconsin Statutes and maintain consistency between local and state law.

