

**CITY OF KAUKAUNA
ORDINANCE 1870-2022**

**ORDINANCE REPEALING SECTION 9.30 RESTRICTIONS ON SALE OR GIFT
OF CIGARETTES OR TOBACCO PRODUCTS**

WHEREAS, with the City of Kaukauna Common Council repealing and recreating Section 9.29 9.29 Purchase Or Possession Of Tobacco Products And Electronic Delivery Devices Prohibited, Section 9.30 of the City of Kaukauna Municipal Code is redundant and no longer needed;

NOW THEREFORE, be it ordained by the Common Council of the City of Kaukauna, in the State of Wisconsin, as follows:

SECTION 1: **REPEAL** “9.30 Restrictions On Sale Or Gift Of Cigarettes Or Tobacco Products” of the City of Kaukauna Municipal Code is hereby *repealed* as follows:

REPEAL

9.30 Restrictions On Sale Or Gift Of Cigarettes Or Tobacco Products

1. ~~*Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:
Cigarette has the meaning given in Wis. Stats. § 139.30(1).
Distributor means any of the following: *Identification card* means any of the following: *Jobber* has the meaning given in Wis. Stats. § 139.30(6).
Manufacturer means any of the following: *Retailer* means any person licensed under Wis. Stats. § 134.65(1).
School has the meaning given in Wis. Stats. § 118.257(1)(c).
Stamp has the meaning given in Wis. Stats. § 139.30(13).
Subjobber has the meaning given in Wis. Stats. § 139.75(11).
Tobacco products has the meaning given in Wis. Stats. § 139.75(12).
Vending machine has the meaning given in Wis. Stats. § 139.30(14).
Vending machine operator has the meaning given in Wis. Stats. § 139.30(15).~~
~~*Restrictions.* Defense of retailer, manufacturer, and distributor. Proof of all of the following facts by a retailer, manufacturer, or distributor who sells cigarettes or tobacco products to a person under the age of 18 is a defense to any prosecution for a violation of subsection (2)(a) of this section: *Violations.* A person specified under Wis. Stats. § 139.30(3). A person specified under Wis. Stats. § 139.75(4). A license containing a photograph issued under Wis. Stats. ch. 343. An identification card issued under Wis. Stats. § 343.50. A person specified under Wis. Stats. § 139.30(7). A person specified under Wis. Stats. § 139.75(5). No retailer, manufacturer, distributor, jobber, or~~

subjobber, no agent, employee, or independent contractor of a retailer, manufacturer, distributor, jobber, or subjobber and no agent or employee of an independent contractor may sell or provide for nominal or no consideration cigarettes or tobacco products to any person under the age of 18, except as provided in Wis. Stats. § 254.92(3). A vending machine operator is not liable under this subsection for the purchase of cigarettes or tobacco products from his vending machine by a person under the age of 18 if the vending machine operator was unaware of the purchase. No retailer, manufacturer, distributor, jobber, subjobber, no agent, employee, or independent contractor of a retailer, manufacturer, distributor, jobber, or subjobber and no agent or employee of an independent contractor may provide for nominal or no consideration cigarettes or tobacco products to any person except in a place where no person younger than 18 years of age is present or permitted to enter unless the person who is younger than 18 years of age is accompanied by his parent or guardian or by his spouse who has attained the age of 18 years. *Signs and notices. Vending machines.* No manufacturer, distributor, jobber, subjobber, or retailer, or their employees or agents, may provide cigarettes or tobacco products for nominal or no consideration to any person under the age of 18. No retailer may sell cigarettes in a form other than as a package or container on which a stamp is affixed under Wis. Stats. § 139.32(1). That the purchaser falsely represented that he had attained the age of 18 and presented an identification card. That the appearance of the purchaser was such that an ordinary and prudent person would believe that the purchaser had attained the age of 18. That the sale was made in good faith, in reasonable reliance on the identification card and appearance of the purchaser and in the belief that the purchaser had attained the age of 18. In this subsection, the term "violation" means a violation of subsection (2)(a), (b), (c) or (f) of this section. A person who commits a violation is subject to a forfeiture of: A court shall suspend any license or permit issued under Wis. Stats. §§ 134.65, 139.34, or 139.79 to a person for: The court shall promptly mail notice of a suspension under subsection (4)(a)3 of this section to the department of revenue and to the clerk of each city which has issued a license or permit to the person. A retailer shall post a sign in areas within his premises where cigarettes or tobacco products are sold to consumers stating that the sale of any cigarette or tobacco product to a person under the age of 18 is unlawful under this section and Wis. Stats. § 938.983. A vending machine operator shall attach a notice in a conspicuous place on the front of his vending machines stating that the purchase of any cigarette or tobacco product by a person under the age of 18 is unlawful under Wis. Stats. § 254.92 and that the purchaser is subject to a forfeiture of not to exceed \$25.00. A retailer or vending machine operator may not sell cigarettes or tobacco products from a vending machine unless the vending machine is located in a place where the retailer or vending machine operator ensures that no person younger than 18 years of age is present or permitted to enter unless he is accompanied by his parent or guardian or by his spouse who has attained the age of 18 years. Notwithstanding subsection (2)(c)1 of this section, no retailer may place a vending machine within 500 feet of a school. Not more than \$500.00 if the person has not committed a previous violation within 12 months of the violation; or Not less than \$200.00 nor more than \$500.00 if the person has committed a previous violation within 12 months of the violation. Not more than three

~~days, if the court finds that the person committed a violation within 12 months after committing one previous violation; Not less than three days nor more than ten days, if the court finds that the person committed a violation within 12 months after committing two other violations; or Not less than 15 days nor more than 30 days, if the court finds that the person committed the violation within 12 months after committing three or more other violations. Whoever violates subsection (2)(b) of this section shall forfeit not more than \$25.00.~~

2. *Penalties:*

(Code 2011, § 9.30)

PASSED AND ADOPTED BY THE CITY OF KAUKAUNA COMMON COUNCIL

Presiding Officer

Attest

Anthony J. Penterman, Mayor, City of
Kaukauna

Sally Kenney, Clerk, City of
Kaukauna