

It is expected that a Quorum of the Personnel Committee, Board of Public Works, and Common Council will be attending this meeting: (although it is not expected that any official action of any of those bodies will be taken)

**CITY OF MENASHA
ADMINISTRATION COMMITTEE
Third Floor Council Chambers
140 Main Street, Menasha
August 4, 2014
6:30 PM
or immediately following Common Council
AGENDA**

- A. CALL TO ORDER
- B. ROLL CALL/EXCUSED ABSENCES
- C. MINUTES TO APPROVE
 - 1. [Administration Committee, 7/21/14](#)
- D. DISCUSSION/ACTION ITEMS
 - 1. [O-22-14 – An Ordinance Amending Title 11, Chapter 2 of the Code of Ordinances. \(Sale or Gift of Nicotine Products to Minors\) \(Introduced by Ald. Keehan\)](#)
 - 2. [O-23-14 – An Ordinance Amending Title 11, Chapter 6 of the Code of Ordinances \(Offenses by Minors\) \(Introduced b Ald. Keehan\)](#)
- E. ADJOURNMENT

"Menasha is committed to its diverse population. Our Non-English speaking population and those with disabilities are invited to contact the Menasha City Clerk at 967-3603 24-hours in advance of the meeting for the City to arrange special accommodations."

CITY OF MENASHA
ADMINISTRATION COMMITTEE
Third Floor Council Chambers
140 Main Street, Menasha
July 21, 2014
MINUTES

DRAFT

A. CALL TO ORDER

Meeting called to order by Vice-Chairman Keehan at 7:48 p.m.

B. ROLL CALL/EXCUSED ABSENCES

PRESENT: Aldermen Sevenich, Langdon, Keehan, Zelinski, Englebert, Benner, Taylor

EXCUSED: Alderman Nichols

ALSO PRESENT: Mayor Merkes, CA/HRD Captain, PC Styka, FC Auxier, DPW Radtke, CDD Keil, ASD Steeno, PP Homan, Clerk Galeazzi

C. MINUTES TO APPROVE

1. [Administration Committee, 7/7/14](#)

Moved by Ald. Langdon, seconded by Ald. Englebert to approve minutes.

Motion carried on voice vote.

D. DISCUSSION/ACTION ITEMS

1. [O-16-14 Substitute Amendment #1 An Ordinance Creating Title 7, Chapter 14 of the Code of Ordinance \(Relating to the Short-Term Rental of Dwelling Units\) \(Introduced by Ald. Zelinski\) \(Held 7/7/14\)](#)

CDD Keil gave an explanation of the creation of this ordinance relating for short-term rentals. The ordinance requires a permitting process. The minimum stay was changed from two consecutive days to one day.

Moved by Ald. Zelinski, seconded by Ald. Langdon to recommend to Common Council O-16-14 Substitute Amendment #1 An ordinance Creating Title 7, Chapter 14 of the Code of Ordinances (Relating to the Short-Term Rental of Dwelling Units)

Motion carried on voice vote. Ald. Taylor abstained.

2. [O-21-14 An Ordinance Relating to the Annexation of Certain Property to the City of Menasha, Wisconsin \(Burroughs Annexation\) \(Introduced by Mayor Merkes\)](#)

CDD Keil explained the property owners filed a petition to annex a vacant lot into the City. In accordance with the boundary agreement with the Town of Menasha, the City will be annexing an additional vacant lot. The ordinance is part of the process when a property is annexed.

Moved by Ald. Englebert, seconded by Ald. Benner to recommend to Common Council O-21-14 An Ordinance Relating to the Annexation of Certain Property to the City of Menasha, Wisconsin (Burroughs Annexation)

Motion carried on roll call 7-0.

E. ADJOURNMENT

Moved by Ald. Zelinski, seconded by Ald. Englebert to adjourn at 8:02 p.m.

Motion carried on voice vote.

Respectfully submitted by Deborah A. Galeazzi, WCMC, City Clerk

ORDINANCE O-22-14

AN ORDINANCE AMENDING TITLE 11, CHAPTER 2
OF THE CODE OF ORDINANCES
(Sale or Gift of Nicotine Products to Minors)

Introduced by Alderman Keehan.

The Common Council of the City of Menasha does hereby ordain as follows:

SECTION 1: Amend Title 11, Chapter 2, by Creating SEC. 11-2-15 of the Code of Ordinances of the City of Menasha, Wisconsin as follows:

Title 11 – Offense and Nuisances

CHAPTER 2

...

SEC. 11-2-15 RESTRICTIONS ON SALE OR GIFT OF CIGARETTES OR NICOTINE OR TOBACCO PRODUCTS TO MINORS.

(a) **DEFINITIONS.** In this section:

- (1) Cigarette has the meaning given in Sec. 139.30(1m), Wis. Stats.
- (2) Direct marketer has the meaning given in Sec. 139.30(2n), Wis. Stats.
- (3) Distributor means a person specified under Sec. 139.30(3) or 139.75(4), Wis. Stats.
- (4) Identification card means a license containing the photograph issued under Chapter 343, Wis. Stats., an identification card issued under Sec. 343.50, Wis. Stats., an identification issued under Sec. 125.085, Wis. Stats.
- (5) Jobber has the meaning given in Sec. 139.30(6), Wis. Stats.
- (6) Manufacturer means any person specified under Secs. 139.30(7) or 139.75(5), Wis. Stats.
- (7) Nicotine product means a product that contains nicotine and is not any of the following:
 - a. A tobacco product.
 - b. A cigarette.
 - c. A product that has been approved by the U.S. Food and Drug Administration for sale as a smoking cessation product or for another medical purpose and is being marketed and sold solely for such an approved purpose.
- (8) Retailer means any person licensed under Sec. 134.65(1), Wis. Stats.
- (9) Subjobber has the meaning given in Sec. 139.75(11), Wis. Stats.
- (10) Tobacco products has the meaning given in Sec. 139.75(12), Wis. Stats.
- (11) Vending machine has the meaning given in Sec. 139.30(14), Wis. Stats.
- (12) Vending machine operator has the meaning given in Sec. 139.30(15), Wis. Stats.

(b) **RESTRICTIONS.**

- (1) No person may purchase cigarettes, tobacco products, or nicotine products on behalf of, or to provide to, any person who is under 18 years of age.
- (2) Except as provided in Sec. 11-6-6(c), no retailer, direct marketer, manufacturer, distributor, jobber or subjobber, no agent, employee or independent contractor of a retailer, direct marketer, manufacturer, distributor, jobber or subjobber and no agent or employee of an independent contractor may sell or give cigarettes, nicotine

products or tobacco products to any person under 18 years of age. A vending machine operator is not liable under this paragraph for the purchase of cigarettes, nicotine products or tobacco products from his or her vending machine by a person under 18 years of age if the vending machine operator was unaware of the purchase.

- (3) No retailer, direct marketer, manufacturer, distributor, jobber or subjobber, no agent, employee or independent contractor of a retailer, direct marketer, manufacturer, distributor, jobber or subjobber and no agent or employee of an independent contractor may provide for nominal or no consideration cigarettes, nicotine products, 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 or her parent or guardian or by his or her spouse who has attained 18 years of age.
 - (4) 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 or she is accompanied by his or her parent or guardian or by his or her spouse who has attained 18 years of age.
 - (5) No retailer or direct marketer may sell cigarettes in a form other than as a package or container on which a stamp is affixed under Sec. 139.32(1), Wis. Stats.
- (c) **DEFENSE.** Proof of all the following facts by a retailer, manufacturer, distributor, jobber, or subjobber, an agent, employee, or independent contractor of a retailer, manufacturer, distributor, jobber, or subjobber, or an agent or employee of an independent contractor who sells cigarettes or tobacco products to a person under 18 years of age is a defense to any prosecution for a violation of Subsection (b)(2) above:
- (1) That the purchaser falsely represented that he or she had attained 18 years of age and presented an identification card.
 - (2) That the appearance of the purchaser was such that an ordinary and prudent person would believe that the purchaser had attained 18 years of age.
 - (3) 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 18 years of age.
- (d) **PENALTY.**
- (1) A person who commits a violation is subject to a forfeiture of:
 - a. Not more than \$500 if the person has not committed a previous violation within 12 months of the violation; or
 - b. Not less than \$200 nor more than \$500 if the person has committed a previous violation within 12 months of the violation.

SECTION2: This ordinance shall become effective upon its passage and publication as provided by law.

Passed and approved this _____ day of August, 2014.

Donald Merkes, Mayor

ATTEST:

Deborah A. Galeazzi, City Clerk

ORDINANCE O-23-14

AN ORDINANCE AMENDING TITLE 11, CHAPTER 6 OF THE CODE OF ORDINANCES (Offenses by Minors)

Introduced by Alderman Keehan.

The Common Council of the City of Menasha does hereby ordain as follows:

SECTION 1: Amend Title 11, Chapter 6, by Repealing and Recreating SEC. 11-6-6 of the Code of Ordinances of the City of Menasha, Wisconsin as follows:

Title 11 – Offense and Nuisances

CHAPTER 6

Offenses by Minors

...

SEC. 11-6-6 POSSESSION OR PURCHASE OF CIGARETTE, NICOTINE OR TOBACCO PRODUCTS BY MINORS.

(a) **DEFINITIONS.** In this section:

- (1) Cigarette has the meaning given in Sec. 139.30(1m), Wis. Stats.
- (2) Law enforcement officer has the meaning given in Sec. 30.50(4s), Wis. Stats.
- (3) Nicotine product means a product that contains nicotine and is not any of the following:
 - a. A tobacco product.
 - b. A cigarette.
 - c. A product that has been approved by the U.S. Food and Drug Administration for sale as a smoking cessation product or for another medical purpose and is being marketed and sold solely for such an approved purpose.
- (4) Retailer means any person licensed under Sec. 134.65(1), Wis. Stats.
- (5) Tobacco products has the meaning given in Sec. 139.75(12), Wis. Stats.

(b) **RESTRICTIONS.**

- (1) Except as provided in Subsection (c), no person under 18 years of age may purchase, attempt to purchase, or possess any cigarette, nicotine product or tobacco product.
- (2) No person under 18 years of age may falsely represent his or her age for the purpose of receiving any cigarette, nicotine product or tobacco product.

(c) **EXCEPTIONS.**

- (1) A person under 18 years of age may purchase or possess cigarettes, nicotine products, or tobacco products for the sole purpose of resale in the course of employment during his or her working hours if employed by a retailer.
- (2) A person under 18 years of age, but not under 15 years of age, may purchase, attempt to purchase or possess cigarettes, nicotine products, or tobacco products in the course of his or her participation in an investigation under Sec. 254.916, Wis. Stats., that is conducted in accordance with Sec. 254.916(3), Wis. Stats.

- (d) A law enforcement officer shall seize any cigarette, nicotine product or tobacco product that has been sold to and is in the possession of a person under 18 years of age.

(e) **PENALTY.**

- (1) Any person under 18 years of age who shall violate the provisions of this section shall be subject to a forfeiture not to exceed Fifty (\$50.00) Dollars plus any and all court costs.
- (2) Any person who receives a citation under this ordinance may be offered the opportunity to have the citation dismissed upon attendance in a tobacco use education program.

...

SECTION2: This ordinance shall become effective upon its passage and publication as provided by law.

Passed and approved this _____ day of August, 2014.

Donald Merkes, Mayor

ATTEST:

Deborah A. Galeazzi, City Clerk