



ORDINANCE 2023-14

AN ORDINANCE TO RE-CREATE A SECTION OF THE MUNICIPAL CODE OF THE VILLAGE OF HOBART, BROWN COUNTY, WISCONSIN, SPECIFICALLY ARTICLE III (POSSESSION OR PURCHASE OF CIGARETTES AND TOBACCO PRODUCTS BY MINORS) OF CHAPTER 197 (MINORS) AND TO AMEND ARTICLE IV (HARBORING MINOR) OF CHAPTER 197 (MINORS)

Purpose: The purpose of this Ordinance is to re-create the current ordinance addressing the possession of cigarettes and other tobacco-related products by minors, and adopting the state smoking ban. As a result of the proposed changes, Article IV (Harboring Minor) needs to be renumbered, but the substance and intent of that section of the Chapter is not being altered.

The Village Board of the Village of Hobart, Brown County, Wisconsin, does ordain as follows:

Section 1: Article III (Possession or Purchase of Cigarettes and Tobacco Products by Minors) of Chapter 197 (Minors) of the Municipal Code of the Village of Hobart, is hereby re-created to read as follows:

Article III (Use of Cigarette, Tobacco Products or Other Smoking Electronic Delivery Devices Prohibited and other Tobacco Restrictions)

§ 197-12. Definitions.

For the purpose of this section the following words shall have the following meanings:

A. "Cigarette" means any roll of tobacco wrapped in paper or any other regulated substance other than tobacco.

B. "Electronic delivery device" means any product containing or delivering nicotine or any other substance intended for human consumption that may be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. Electronic delivery device includes any device manufactured, distributed, marketed or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or description, or any component part of such product whether or not sold separately. Electronic delivery device does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product and is being marketed and sold solely for such an approved purpose.

C. "Law enforcement officer" means any person employed by the state or any political subdivision of the state, for the purpose of detecting and preventing crime and enforcing laws or ordinances and who is authorized to make arrests for violations of the laws or ordinances he or she is employed to enforce.

D. "Smoke or smoking" means burning, holding, inhaling, exhaling or carrying any lighted or heated cigar, cigarette, pipe or heated tobacco or plant product intended for inhalation, whether natural, or synthetic, in any manner or form. Smoking includes the use of an electronic delivery device which creates an aerosol or vapor, in any manner or form, or the use of any oral smoking device.

E. "Tobacco products" means cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready-rubbed and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking; but (tobacco products(does not include cigarettes, as defined under Wis. Stats. § 139.30(1).

§ 197-13. Prohibited Conduct.

A. No child under the age of 18 may do any of the following:

(1) Buy or attempt to buy any Cigarette or Tobacco Product or other Smoking or Electronic Delivery Device or engage in any conduct prohibited by Wis. Stat. § 254.92.

(2) Falsely represent his or her age for the purpose of receiving any Cigarette or Tobacco Product or other Smoking or Electronic Delivery Device or for the purpose of engaging in any other activity prohibited by Wis. Stat. § 254.92.

(3) Possess any Cigarette or Tobacco Product or other Smoking or Electronic Delivery Device.

An individual who violates subsections 1, 2, and 3 shall be subject to a forfeiture of up to \$100.00 for each violation.

§ 197-14. Exceptions.

A. A child may purchase or possess Cigarettes or Tobacco Products or other Smoking or Electronic Delivery Device for the sole purpose of resale in the course of employment during his or her working hours if employed by a retailer licensed under Wis. Stats. § 134.65(1)(d).

B. A law enforcement officer shall seize any Cigarette or Tobacco Product, or other Smoking or Electronic Delivery Device involved in any violation of subsection § 197-13 in his or her presence.

§ 197-15. Smoking Ban Adopted.

The Village adopts, by reference, the provisions of Wis. Stats. § 101.123, smoking prohibited, pertaining to the statewide smoking ban. For purposes of enforcing the smoking ban found in Wis. Stats. § 101.123 within this Village, the definition found in this section for "Smoke" or "Smoking" shall apply instead of the definition for "Smoking" found in said state statutes and the definition found in this section for "Electronic Delivery Device" shall also apply.

§ 197-16. Related Provisions.

This ordinance further adopts:

- (1) Wis. Stat. § 124.65 – Cigarette and tobacco products retailer license.
- (2) Wis. Stat. § 134.66 – Restrictions on sale or gift of cigarettes or nicotine or tobacco products.
- (3) Wis. Stat. § 254.76 – Causing fires by tobacco smoking.
- (4) Wis. Stat. § 254.92 – All other provisions of this statutory subsection not otherwise adopted or encompassed by this ordinance.

§ 197-17. Penalties

Penalties or imposed forfeitures for the above, not otherwise specifically noted, fall under §14-3 of the Village of Hobart municipal ordinances.

Article IV (Harboring Minor)

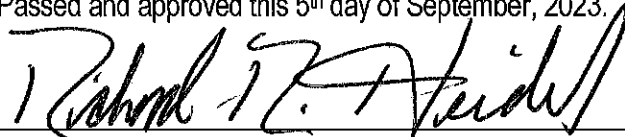
§ 197-18. Harboring minor without parental consent.

Any owner, tenant or person in control of a residence or other facility shall not allow or permit a child under the age of 18 to loiter, idle or remain in such residence or upon such property without the consent of the child's parent, guardian or spouse.

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

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

Passed and approved this 5th day of September, 2023.



Richard Heidel, Village President

Attest:

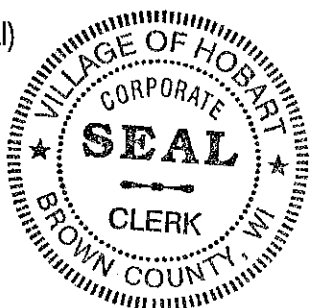


Aaron Kramer, Village Administrator

I, Erica Berger, am the Acting Village Clerk-Treasurer of the Village of Hobart, Brown County, Wisconsin. I hereby certify that the aforementioned is a true and exact reproduction of the original ordinance or resolution adopted by the Village Board.

IN WITNESS WHEREOF, I have executed this Certificate in my official capacity on September 5th 2023.

(Seal)




Erica Berger, Acting Village Clerk-Treasurer