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ORDINANCE: Amend Section 9.14 of the General Code of Winnebago County: Smoking in County Buildings

TO THE WINNEBAGO COUNTY BOARD OF SUPERVISORS:

8 **WHEREAS**, a core function of public health is policy development to ensure that the public interest is served
9 by measures that are adopted.ⁱ

10 **WHEREAS**, a Health Focus Area of *Healthiest Wisconsin 2020* is tobacco use and exposure.ⁱⁱ

11 **WHEREAS**, commercial tobacco use is the single most preventable cause of death in the United States.ⁱⁱⁱ

12 **WHEREAS**, tobacco still costs Wisconsin \$4.7 billion in health care and lost productivity.^{iv}

13 **WHEREAS**, Wisconsin implemented its Clean Indoor Air Act in 2010, and since then e-cigarette types and
14 brands have proliferated.^v

15 **WHEREAS**, from 2014 to 2018 in Wisconsin, there was a 272% increase in e-cigarette use among middle
16 school students and a 154% increase among high school students.^{vi}

17 **WHEREAS**, in 2018, 29% of Winnebago County high school students reporting using an electronic vapor
18 product in the past month, compared to 21% in 2016.^{vii}

19 **WHEREAS**, nicotine found in tobacco products including e-cigarettes slows brain development in
20 adolescents.^{viii}

21 **WHEREAS**, the use of any non-cigarette tobacco product, including e-cigarettes, predicts smoking cigarettes
22 a year later.^{ix}

23 **WHEREAS**, two chemicals found in some e-cigarette flavors – diacetyl and 2,3-pentanedione – have been
24 shown to cause irreparable lung disease.^x

25 **WHEREAS**, the Wisconsin State Health Officer issued a Public Health Advisory in January 2019, to inform
26 the public about the alarming statistics on current e-cigarette use among youth in Wisconsin.^{xi}

27 **WHEREAS**, e-cigarette aerosol can contain potentially harmful chemicals, including nicotine, heavy metals,
28 volatile organic compounds (VOCs), and ultrafine particulates.^{xii}

29 **WHEREAS**, e-cigarette use increases airborne concentrations of particulate matter and nicotine in indoor
30 environments compared with background levels.^{xiii}

31 **WHEREAS**, the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE), the
32 international standards setting body and cognizant authority on ventilation and acceptable indoor air quality, has
33 updated its recommended standard to include e-cigarette prohibition in smoke-free workplaces laws.^{xiv}

34 **WHEREAS**, the City of Neenah and the City of Appleton have already incorporated electronic smoking
35 devices into their clean indoor air laws.^{xv}

36 **WHEREAS**, the updated definitions were provided by the Wisconsin Tobacco Prevention and Control
37 Program and are considered best practice.

38 **WHEREAS**, definitions in Sections 9.14 and 9.31 should be consistent.

39 **NOW, THEREFORE, THE WINNEBAGO COUNTY BOARD OF SUPERVISORS DOES ORDAIN AS**
40 **FOLLOWS:** Section 9.14 of the General Code of Winnebago County is hereby amended and shall read as follows:
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9.14 SMOKING IN COUNTY BUILDINGS

(1) **Authority.** This Section of the Code is adopted under the authority granted by §101.123(2), Wis. Stats.

(2) **Definitions.** As used in this Section.

(a) "Assisted Living Facility" means a community-based residential facility, as defined in §50.01(1g), Wis Stats, a residential care apartment complex, as defined in §50.01(6d), Wis Stats, or an adult family home as defined in §50.01(1)(b), Wis Stats.

(b) "Building" means any enclosed, indoor area of a structure owned by the County or any enclosed, indoor area of that part of a structure leased by the County.

(c) "County-owned" means any buildings, as defined in this Section, owned by the County.

(d) "County-leased" means any part of a building, as defined in this Section, which is leased by the County.

(e) "Electronic smoking device" means any device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah.

(f) "Enclosed Indoor Area" means all space between a floor and a ceiling that is bounded by walls, doors, or windows, whether opened or closed, covering more than fifty percent (50%) of the combined surface area of the vertical planes constituting the perimeter of the area.

(g) "Entrance" means a doorway which gives direct access to a building from a contiguous street, plaza, sidewalk or parking lot, opened windows, and any building ventilation systems.

(h) "Smoking" means inhaling, exhaling, burning or carrying any lighted **or heated** cigar, cigarette, pipe, **hookah**, or any other lighted **or heated tobacco or plant product intended for inhalation** ~~smoking equipment~~ in any manner or in any form. **"Smoking" includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this Article.**

(i) "Sports Arena" means any stadium, pavilion, gymnasium, swimming pool, skating rink, bowling center, or other building where spectator sporting events are held.

(j) "Vehicle" means any automobile, truck, or other motorized piece of equipment owned, leased, or operated by the county.

(k) "Workplace" means any enclosed indoor area that employees normally frequent during the course of employment, including an office, a work area, an elevator, an employee lounge, a restroom, a conference room, a meeting room, a classroom, a hallway, a stairway, a lobby, a common area, a vehicle, a storage area, or an employee cafeteria. A private residence shall not be considered a place of employment unless it is used as a child care, adult day care, or health care facility.

(3) **Smoking Prohibited.**

(a) No person shall smoke in any County-owned or County-leased building, work place or vehicle at any time.

(b) Smoking is prohibited within all sports arenas on county-owned or county-lease property.

(c) Smoking is prohibited within twenty (20) feet of any entrance of a county-owned or county-leased building, sports arena or workplace.

(d) No person shall smoke within the building or the campus area of Park View Health Center.

83 1. The “campus of Park View Health Center” shall be defined for the purpose of this ordinance as
84 those areas, both indoors and outdoors, falling within the perimeter of the campus boundary
85 surrounding the skilled nursing facility building at Park View Health Center, as is indicated in
86 Exhibit “A”, attached.

87 (4) **Exceptions.** The prohibition in Subsection (3) shall not apply to the following structures or the following
88 areas:

89 (a) County-owned or County-leased residential rooms in assisted living facilities, which are designated
90 smoking as defined in §§101.123(3)(i) and 101.123(3)(j), Wis. Stats.

91 (b) Private residences in buildings owned or leased by the Winnebago County Housing Authority, unless
92 the building is otherwise designated as smoke free.

93 (c) Outside smoking areas, designated as such by the County Executive after conferring with the County
94 Health Director, upon county-owned and leased property and sports arenas.

95 (5) **Responsibilities.** The County shall post signs prohibiting smoking at least twenty (20) feet from the
96 public entrance of County-owned and County-leased buildings, sports arenas, and work places. The
97 signs shall be:

98 (a) of uniform dimensions and other characteristics required under §101.123(2m), Wis. Stats., specified
99 by §101.123(6), Wis. Stats.

100 (b) be posted at doorway entrances of county-owned and county-leased buildings, sports arenas and
101 work places.

102 (6) **Penalties and Enforcement.**

103 (a) Any person who shall violate any provision of this Section of the Code shall, upon conviction thereof,
104 forfeit \$100.00, together with the costs of prosecution and in default of payment of such forfeiture
105 and costs of prosecution.

106 (b) Citations may be issued for violations of this Section of the General Code as provided for in
107 Section 25.04(4) of the General Code of Winnebago County.

108 (7) **Effective Date.** This ordinance shall become effective as of the date following the date of its publication.
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110 Respectfully submitted by:

111 **BOARD OF HEALTH**

112 Committee Vote: **7-0**

113 Vote Required for Passage: **Majority of Those Present**

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115 Approved by the Winnebago County Executive this ____ day of _____, 2020.
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117 _____
118 Mark L Harris
119 Winnebago County Executive

ⁱ https://www.networkforphl.org/_asset/dd81f6/Public-Health-Core-Functions-and-10-Essential-Services.pdf

ⁱⁱ Tobacco Use and Exposure. Healthiest People 2020; Madison, WI: 2010. <https://www.dhs.wisconsin.gov/publications/p0/p00816-tobacco.pdf>

ⁱⁱⁱ Current cigarette Smoking Among U.S. Adults Aged 18 Years and Older. Centers for Disease Control and Prevention; Atlanta, Georgia: 2019. <https://www.cdc.gov/tobacco/campaign/tips/resources/data/cigarette-smoking-in-united-states.html>

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- iv The Toll of Tobacco in Wisconsin. Campaign for Tobacco-Free Kids; Washington, DC: 2017. <https://www.tobaccofreekids.org/problem/toll-us/wisconsin>.
- v <https://e-cigarettes.surgeongeneral.gov/getthefacts.html>
- vi Data from the 2018 Wisconsin Youth Tobacco Survey. Wisconsin Tobacco Prevention and Control Program; Madison, WI. <https://www.dhs.wisconsin.gov/publications/p01624.pdf>.
- vii Winnebago County High School Student Youth Risk Behavior Survey Report 2018.
- viii Bach, Laura. *Flavored Tobacco Products Attract Kids*. Campaign for Tobacco-Free Kids; Washington, DC: 2017 (p. 3). <https://www.tobaccofreekids.org/assets/factsheets/0383.pdf>.
- ix Wills TA, Knight R, Sargent JD, Gibbons FX, Pagano I, & Williams RJ. *Longitudinal Study of E-Cigarette Use and Onset of Cigarette Smoking Among High School Students in Hawaii*. Tobacco Control; London, UK: 2016. <https://tobaccocontrol.bmj.com/content/early/2016/01/05/tobaccocontrol-2015-052705>.
- x Allen JG, Flanigan SS, LeBlanc M, Vallarino J, MacNaughton P, Stewart JH, Christiani DC. *Flavoring Chemicals in E-Cigarettes: Diacetyl, 2,3-Pentanedione, and Acetoin in a Sample of 51 Products, Including Fruit-, Candy-, and Cocktail-Flavored E-Cigarettes*. Environmental Health Perspectives; Boston, MA: 2016 (p. 733). <https://ehp.niehs.nih.gov/wp-content/uploads/124/6/ehp.1510185.alt.pdf>.
- xi <https://www.dhs.wisconsin.gov/tobacco/advisory.htm>
- xii U.S. Department of Health and Human Services. *E-Cigarette Use Among Youth and Young Adults: A Report of the Surgeon General—Executive Summary*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2016.
- xiii National Academies of Sciences, Engineering, and Medicine. 2018. *Public health consequences of e-cigarettes*. Washington, DC: The National Academies Press. doi: <https://doi.org/10.17226/24952>.
- xiv ASHRAE. Position Document on Secondhand Smoke, reaffirmed by ASHRAE Technology Council June 29, 2016. ASHRAE. Ventilation for Acceptable Indoor Air Quality, 2015 Supplement.
- xv <https://www.ci.neenah.wi.us/wp-content/uploads/2019/08/Ord-2019-17-Amending-Code-Sec-11-100-Smoking-Ban.pdf> ; <https://www.appleton.org/home/showdocument?id=22509>