

2 **ORDINANCE: Amend Section 9.31 of the General Code of Winnebago County:**  
3 **Prohibition of Smoking in Certain Places**

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6 **TO THE WINNEBAGO COUNTY BOARD OF SUPERVISORS:**

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

9 **WHEREAS**, a Health Focus Area of *Healthiest Wisconsin 2020* is tobacco use and exposure.<sup>ii</sup>

10 **WHEREAS**, commercial tobacco use is the single most preventable cause of death in the United States.<sup>iii</sup>

11 **WHEREAS**, tobacco still costs Wisconsin \$4.7 billion in health care and lost productivity.<sup>iv</sup>

12 **WHEREAS**, Wisconsin implemented its Clean Indoor Air Act in 2010, and since then e-cigarette types and  
13 brands have proliferated.<sup>v</sup>

14 **WHEREAS**, from 2014 to 2018 in Wisconsin, there was a 272% increase in e-cigarette use among middle  
15 school students and a 154% increase among high school students.<sup>vi</sup>

16 **WHEREAS**, in 2018, 29% of Winnebago County high school students reporting using an electronic vapor  
17 product in the past month, compared to 21% in 2016.<sup>vii</sup>

18 **WHEREAS**, nicotine found in tobacco products including e-cigarettes slows brain development in  
19 adolescents.<sup>viii</sup>

20 **WHEREAS**, the use of any non-cigarette tobacco product, including e-cigarettes, predicts smoking cigarettes  
21 a year later.<sup>ix</sup>

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

24 **WHEREAS**, the Wisconsin State Health Officer issued a Public Health Advisory in January 2019, to inform  
25 the public about the alarming statistics on current e-cigarette use among youth in Wisconsin.<sup>xi</sup>

26 **WHEREAS**, e-cigarette aerosol can contain potentially harmful chemicals, including nicotine, heavy metals,  
27 volatile organic compounds (VOCs), and ultrafine particulates.<sup>xii</sup>

28 **WHEREAS**, e-cigarette use increases airborne concentrations of particulate matter and nicotine in indoor  
29 environments compared with background levels.<sup>xiii</sup>

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

33 **WHEREAS**, the City of Neenah and the City of Appleton have already incorporated electronic smoking  
34 devices into their clean indoor air laws.<sup>xv</sup>

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

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

38 **NOW, THEREFORE, THE WINNEBAGO COUNTY BOARD OF SUPERVISORS DOES ORDAIN AS**  
39 **FOLLOWS:** Section 9.31 of the General Code of Winnebago County is hereby amended and shall read as follows:  
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42 **9.31 PROHIBITION OF SMOKING IN CERTAIN PLACES**

- 43 (1) **Authority:** This ordinance is adopted pursuant to that authority provided by §101.123(4m), Wis Stats.
- 44 (2) Section 101.123, Wis Stats, Incorporated by Reference: §101.123, Wis Stats, to the extent such
- 45 statutory section requires any act be performed/prohibited, is hereby adopted and herein by reference
- 46 made a part of this section of the General Code of Winnebago County as if fully set forth herein. Any act
- 47 required to be performed or prohibited by §101.123, Wis Stats, is required/prohibited by this section of
- 48 the Code.

49 **(3) Definitions: The following definitions shall apply instead of the definition found in state statutes.**

50 **(a) "Electronic smoking device" means any device that may be used to deliver any aerosolized**

51 **or vaporized substance to the person inhaling from the device, including, but not limited to,**

52 **an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah.**

53 **(b) "Smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar,**

54 **cigarette, pipe, hookah, or any other lighted or heated tobacco or plant product intended for**

55 **inhalation in any manner or in any form. "Smoking" includes the use of an electronic**

56 **smoking device which creates an aerosol or vapor, in any manner or in any form, or the use**

57 **of any oral smoking device for the purpose of circumventing the prohibition of smoking in**

58 **this Article.**

59 **(4) Penalty:** Any person who violates any provision of this section of the Code shall be subject to forfeitures

60 of no less than \$100.00 but no greater than \$250.00 as is set forth in §101.123(8), Wis Stats.

61 **(5) Applicability:** The provisions of this ordinance shall apply in all unincorporated areas of Winnebago

62 County.

63 **(6) Effective Date:** This ordinance shall become effective as of the date following the date of its publication.

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65 Respectfully submitted by:

66 **BOARD OF HEALTH**

67 Committee Vote: **7-0**

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

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70 Approved by the Winnebago County Executive this \_\_\_\_ day of \_\_\_\_\_, 2020.

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72 \_\_\_\_\_  
73 Mark L Harris  
74 Winnebago County Executive

<sup>i</sup> <https://www.networkforphl.org/asset/dd81f6/Public-Health-Core-Functions-and-10-Essential-Services.pdf>

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

<sup>iii</sup> 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>

<sup>iv</sup> The Toll of Tobacco in Wisconsin. Campaign for Tobacco-Free Kids; Washington, DC: 2017. <https://www.tobaccofreekids.org/problem/toll-us/wisconsin>.

<sup>v</sup> <https://e-cigarettes.surgeongeneral.gov/getthefacts.html>

<sup>vi</sup> Data from the 2018 Wisconsin Youth Tobacco Survey. Wisconsin Tobacco Prevention and Control Program; Madison, WI. <https://www.dhs.wisconsin.gov/publications/p01624.pdf>

<sup>vii</sup> Winnebago County High School Student Youth Risk Behavior Survey Report 2018.

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- <sup>viii</sup> 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>.
- <sup>ix</sup> 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. [tobaccocontrol.bmj.com/content/early/2016/01/05/tobaccocontrol-2015-052705](https://tobaccocontrol.bmj.com/content/early/2016/01/05/tobaccocontrol-2015-052705).
- <sup>x</sup> 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>.
- <sup>xi</sup> <https://www.dhs.wisconsin.gov/tobacco/advisory.htm>
- <sup>xii</sup> 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.
- <sup>xiii</sup> 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>.
- <sup>xiv</sup> ASHRAE. Position Document on Secondhand Smoke, reaffirmed by ASHRAE Technology Council June 29, 2016. ASHRAE. Ventilation for Acceptable Indoor Air Quality, 2015 Supplement.
- <sup>xv</sup> <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>