



**MINUTES**

**Health and Human Services Board**

Government Center, County Board Room

Balsam Lake, WI 54810

10:00 a.m. Tuesday, December 10, 2019

Meeting called to order by Chair Bonneprise at 10:00 a.m.

Members present

Attendee Name	Title	Status
John Bonneprise	Chair	Present
Joe Demulling	Vice Chair	Present
Jim Edgell	Supervisor	Absent
Michael Larsen	Supervisor	Present
Mike Prichard	Supervisor	Present
William Alleva	Citizen	Present
Pete Raye	Citizen	Absent
Sabrina Meddaugh	Citizen	Present
Dr. Arne Lagus	Citizen	Present

Also present: Lisa Ross, Deputy County Clerk, Joleen Wiemann, Deputy County Clerk; Tonya Eichelt, Community Services Director; Kathy Gingras, Community Services Business Operations Manager; Brian Kaczmariski, Public Health Director; Mary Boe, W3TFL Tobacco Plan Coordinator; Andrew Butzler, CVSO; Dana Reese, GAM Administrator; Vince Netherland, County Administrator.

**Approval of Agenda-** Chair Bonneprise called for a motion to approve agenda. **Motion** (Larsen/Demulling) to approve agenda. **Motion** carried by unanimous voice vote.

**Approval of Minutes-** Chair Bonneprise called for a motion to approve the minutes of the November 12, 2019 meeting. **Motion** (Alleva/Larsen) to approve the minutes. **Motion** carried by unanimous voice vote.

**Public Comment** – None

**Receipt of Information from Supervisors Not Seated as Committee Members** - No information was received.

**Announcements and Committee Information** – The board received introductions to the new County Administrator, Vince Netherland, and of new Deputy County Clerk, Joleen Wiemann.

**Reports and Presentations**

Tonya Eichelt, Community Services Division Director provided the Board with a Division Update and an Update regarding the Behavioral Health Department.

The Board received an update regarding Golden Age Manor (GAM) from Dana Reese, Golden Age Manor Administrator. The board had discussion regarding: staffing at GAM, Governor Evers' veto of Assembly Bill AB-76 Relating to hours of instructional program for nurse aides, and the status of the facility's annual inspection by the state.

The Board received a report and update regarding the County Veterans Services Office (CVSO) from Andrew Butzler, Director of CVSO. The board had discussion regarding: Transportation Programs and VA Healthcare.

### **Discussion Items**

Director Eichelt asked the Board for topics that should be added to the 2020 Work Plan. The Board discussed the following topics: the TAP grant, presentations regarding options to improve affordable housing and public transportation, program evaluations, and Strategic Planning of a Youth Wellness Ordinance focusing on vaping and truancy, and a Polk County Campus-Wide: Smoke-Free/Vape-Free Policy. Director Eichelt will draft the 2020 Work Plan to present to the Board for their review and approval at the next HHS meeting in January. Chair Bonneprise noted he is unable to attend the January HHS meeting. Director Eichelt, noted the HHS Board does not have a meeting in February.

The Board received an update regarding the Youth Wellness Ordinance from Public Health Director Kaczmariski. At the November meeting three focus areas pertaining to Youth Wellness were discussed: teen sexting, chronic truancy and vaping. Director Kaczmariski addressed the board for their reconsideration of all three focus areas, and keeping the vaping topic as the main area of focus since there is legal process in effect pertaining to all three areas, sexting vaping and truancy and there is also a disciplinary process in place through Polk County's Stop Abusive Messaging (S.A.M.) Project. The Board discussed receiving education on the truancy topic at the January HHS meeting, and a presentation at the March HHS meeting, potential presenters of the truancy topic was also discussed.

The Board received an update regarding amendments to the Smoke-Free Ordinance from Public Health Director, Brian Kaczmariski. Director Eichelt distributed two articles regarding e-cigarettes and vaping from the Minneapolis Star-Tribune on December 5, 2019. The articles were provided by Supervisor Prichard. The Board also received a copy of Ordinance 67-10: Smoke-Free Air Ordinance with notations specifying proposed amendments to Smoke-Free Air Ordinance No. 67-10 including: format updates, updated verbiage to include "Electronic Delivery Devices," and removing outdated verbiage. The Board reviewed and discussed recommendation of an Amendment to the Smoke-Free Air Ordinance No. 67-10.

**Motion** (Lagus/Alleva) in support of proposed Amendment to the Smoke-Free Air Ordinance No. 67-10, reflecting the language and updates as per the attached draft, to be presented to the County Board, in Resolution format, with recommendation of passage by the Board of Supervisors at the next County Board Meeting on December 17, 2019. **Motion** passed by unanimous voice vote.

**Items for the next Agenda** – Truancy presentation and discussion by Public Health staff and/or Unity staff regarding youth wellness, 2020 Work Plan.

**Next Meeting** – 10:00 a.m. Tuesday, January 14, 2019

Time was provided for members to discuss items not on the agenda.

Chair Bonneprise called for a motion to adjourn. **Motion** (Alleva/Demulling) to adjourn. **Motion** carried by unanimous voice vote. Chair Bonneprise declared meeting adjourned at 11:25 a.m.

Respectfully submitted,

Lisa Ross, Deputy County Clerk



# POLK COUNTY, WISCONSIN

[WWW.CO.POLK.WI.US](http://WWW.CO.POLK.WI.US)

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## AGENDA AND NOTICE OF MEETING

### HEALTH & HUMAN SERVICES BOARD

Government Center, 100 Polk County Plaza, Balsam Lake, WI 54810

County Board Room

Tuesday, December 10, 2019 at 10:00 a.m.

A quorum of the County Board may be present

Packet: Agenda/Notice of Meeting; Minutes of November 12, 2019 Meeting; 2019 Workplan

1. Call to Order-Chairman Bonneprise
2. Approval of Agenda
3. Approval of Minutes for the November 12, 2019 Meeting
4. Public Comment
5. Receipt of Information from Supervisors Not Seated as Committee Members
6. Announcements and Committee information
7. Division Update
8. Golden Age Manor Update
9. Veterans Services Update
10. Discussion regarding 2020 Workplan Items
11. Discussion and Update Regarding Youth Wellness Ordinance
12. Discussion and Possible Action Regarding Amending Smoke-Free Air Ordinance 67-10
13. Identify Subject Matters for the January 14, 2020 Meeting
14. Adjourn

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Items on the agenda not necessarily presented in the order listed. This meeting is open to the public according to Wisconsin State Statute 19.83. Persons with disabilities wishing to attend and/or participate are asked to notify the County Clerk's office (715-485-9226) at least 24 hours in advance of the scheduled meeting time so all reasonable accommodations can be made. Requests are confidential.



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## December 2019 Update

### Division wide

We continue to work on finalizing the 2020-2022 Strategic Plan. We are implementing three policies; Remote Work, Professional Development and Training and Continuing Education in 2020. Staff will be oriented to these at the December 18 All Staff meeting. Additionally, we have formulated a Trauma Responsive workgroup that will work to make the CSD a Trauma Responsive agency in 2020.

### Economic Support

J.J. has completed new worker training and is in full rotation with the Family Team. M.N. returns from maternity leave December 9. K.K. will be transitioning to the Elderly Blind Disable/Long Term Care (EBD/LTC) team sometime in January 2020 once the EBD/LTC Lead Worker is onboard. We are busy with the energy assistance program. From mid-September to December 6 we have processed 930 applications. Our goal is to have 1000 applications processed by the end of the year.

### Department of Children and Families (DCF)

We are currently recruiting for a DCF Supervisor to replace L.W.'s vacancy along with an open recruitment for two currently vacant positions and the additional positions budgeted in 2020. These recruitments close this week. R.K. was recently hired and is in the process of obtaining the necessary training for Child Welfare Social Workers. With all of the changes the team has remained strong and focused on keeping kids safe in Polk County. Kudos to all DCF staff!

The foster care appreciation banquet was held last week at Peace Lutheran Church in Dresser. The banquet was a success and foster parents appreciated the recognition. We are also one of fifteen Counties in Wisconsin participating in the child welfare caseload study. Results of the study should be out by spring 2020.

### Public Health

1. Public Health Preparedness Consortium (WWPHRC) added another member; we welcome Clark County to the WWPHRC
2. Public Health received the Narcan Response Grant, which will include Narcan and education to municipal law enforcement, and field based social workers
3. J.H., Public Health Nurse, joined the team on December 3. Welcome Jill!



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4. We will be working on enhanced Hepatitis A screening with the jail.
  5. Continuing to close out 2019 grants and negotiate for 2020 deliverables.
  6. 2020 Community Health Improvement Plan (CHIP) will go live January 1, 2020.
  7. Working with Corp Counsel to amend 2010 Smoke Free Air Ordinance to include Electronic Delivery Devices.
  8. Working on a collaborative with Unity School and all 8 area superintendents to develop a county-side vaping ordinance.

#### **Business and Operations**

1. Open billing position will be posted soon. The focus of the position will be to establish a process and maintain consistency with Out of Home Care Reimbursements (OHCR=DCF placements) billing.
2. Working on creating new Programs in Eptomax: Jail, Comprehensive Community Services (CCS), and Birth to Three.
3. Finalizing new workflows for 2020: Client Authorizations, time tracking in Eptomax for Behavioral Health staff.
4. New wall in lobby is completed and the brochures are all in place.
5. We are going ready for end of year.



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## BEHAVIORAL HEALTH UPDATE – December, 2019

As our Division has been conducting strategic planning, so has our department. We have had ongoing conversations with teams regarding gaps in service, identified needs of our consumers, and what folks are hearing from the community with regard to mental health and substance use needs. While we cannot fill every need, it is critical that we remain cognizant of needs or gaps in service and do what we can to meet them.

We recently hired three new staff. One is a fulltime Clinician and two part time Rehabilitation Workers who will focus on providing Comprehensive Community Services (CCS) services in the community. Often workers “meet people where they are at” such as their home, at the library, at the park or a variety of other community settings. There are many influences playing a part in the recovery journey and by meeting people where they are at, we are taking into consideration their values, their style, their needs and connecting with them in a way that evidence based and enhances successful recovery. In addition, we have two existing staff members who are providing CCS services in the community as well as in the clinic.

In the 1<sup>st</sup> quarter of 2020, we will be introducing Moral Reconciliation Therapy (MRT). MRT seeks to decrease recidivism among criminal offenders by increasing their moral reasoning. We are in the process of establishing agreements with the State of Wisconsin Department of Corrections (DOC) and the Polk County Jail to provide MRT in the jail and for individuals working with the DOC. In addition to MRT, we will also add Anger Management groups, increase Family Therapy Services and Enhanced Illness Management & Recovery therapy (E-IMR) in 2020.

Finally, 2020 will bring a significant change to our treatment staff with the retirement of James Rugowski, MD, Psychiatrist. Dr. Rugowski’s care and treatment for the citizens of Polk County will be greatly missed. He has been a part of our team for about seven years and has been an invaluable partner in serving our community and educator for staff. He will be missed. With that, a request for proposal (RFP) has been posted seeking a replacement. More to follow on this in the coming months.

On behalf of all of the Behavioral Health Services staff, Season’s Greetings and Happy New Year to each of you and your families!

# OFFICE PROCESSED

## Qrtly, July, Aug, Sept, 2019

<b>ACTIVITY</b>	<b>#</b>	<b>ACTIVITY</b>	<b>#</b>
Power of Attorney	<b>56</b>	ANVG – (dental)	
Disability Comp Claims	<b>70</b>	ANVG (SAG)	
Disability – Response Letters	<b>13</b>	State Eligibility (WDVA0001)	
Pension Claims <i>13,752 - 22,939</i>		Park Pass	<b>2</b>
Pension Response Letters		Property Tax Credit	<b>6</b>
DIC Claims		WI Identifier	<b>14</b>
Widow Pension <i>9,224 - 14,742</i>	<b>1</b>	WI GI Bill	
NOD/DRO	<b>15</b>	Vet Ed	
BVA Appeals		PLP Loan	
Insurance Claims/ChampVA	<b>4</b>		
Burial Benefits	<b>5</b>	SF180	<b>11</b>
Gov't Marker Applications	<b>12</b>	Verification Letters	<b>9</b>
Flag Applications	<b>1</b>		
Education Benefits - Federal	<b>2</b>	Veterans Assistance Program	
Vocational Rehabilitation		State Cemetery	<b>5</b>
Loan Guaranty (1880-COE-Fed)	<b>4</b>	WI King Home	
Debt Waiver Request (Federal)	<b>1</b>		
Medical Enrollment/Mean	<b>16</b>	Miscellaneous - State	<b>2</b>
Waiver Request (Medical)	<b>1</b>	Miscellaneous - Federal	<b>63</b>
Adaptive Grants			
Referral for Emergency Services(Home repair)		Referral for WHEAP Program	

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# Minnesota joins a fight worth having

Twenty years after it brought Big Tobacco to heel, Minnesota is moving *this time to take on its offshoot* — an e-cigarette manufacturer that it says is using deceptive marketing and other appeals to lure underage youths into using their highly addictive product.

Attorney General Keith Ellison, backed by Gov. Tim Walz, said Wednesday that the state is suing Juul Labs, a giant in the e-cig market, for “*deceptive, fraudulent and unlawful practices*” that have jeopardized the health and safety of young Minnesotans.

It’s a fight worth taking on, against an irresponsible actor whose highly addictive product has already eroded a decade’s worth of gains this state made against underage smoking. Some may contend that vaping has a place as a way for adults to wean themselves off cigarettes. That is possible, *although e-cigarettes have never been federally approved as a smoking cessation aid.* However, there is still strong reason to go after Juul in particular.

Unlike other manufacturers, Juul products pack a nicotine punch that is proving exceptionally harmful to its young users. You wouldn’t know from the ads, but each Juul “pod” contains an extraordinary amount of nicotine, equal to a full pack — or even two — of cigarettes. Using a special production process and candy-like flavors, Juul has found a way to mask effects that otherwise would stop someone from consuming such high concentrations of nicotine. And in the U.S., unlike the European Union, there are no federal limits on nicotine levels. The result has been young users who find themselves in the grips of a substance that has been compared to heroin for the power of its addiction.

Claire Hering, a junior at Hopkins High School, told those gathered at the news conference announcing the suit that when she started vaping — as a freshman — she was told it was safer than cigarettes. “It was so easy for me to get it,” she said. Soon she was hooked. Ironically, she found she was unable to buy approved smoking cessation aids, such as patches or gum, because she was underage.

Vaping has developed almost without regulation in this country. It wasn’t until a rash of severe lung injuries among vapers that there was widespread attention to the pervasiveness of vaping among high schoolers and middle-school students. In Minnesota, a recent state survey showed that one-fourth of high schoolers had vaped in the previous month, while usage rates among middle-school students had doubled.

New York and California filed lawsuits against Juul in November, and the American Medical Association has urged a sweeping nationwide ban on vaping products. The Food and Drug Administration is investigating Juul’s marketing practices and recently sent the company a warning letter to stop marketing itself as a safer alternative to cigarettes.

The Minnesota lawsuit claims that Juul is responsible for “creating a public nuisance” and violating the state’s consumer protection laws. The suit, which will also seek damages of an unspecified amount, seeks to bar Juul from marketing to youths and force the firm to fund cessation programs and a public education program on the dangers of youth vaping.

Juul hit the market in 2015 and by 2018 had a market share above 70%. No surprise, it is partly owned by Altria, formerly Phillip Morris Co. and one of the largest cigarette manufacturers in the world. *Its tactics are alarmingly similar to those Big Tobacco used to hook young customers.*

We know this drill. It’s time to stop this kind of deception in its tracks. Juul, recognizing what’s coming, has backed off its flavored pods in the U.S. and pulled its ads. But the damage is done. The high-nicotine product will continue to erode the health of children who don’t yet know the lifelong damage they may be causing themselves.

State is standing up for young people who have been hurt by addictive Juul Labs products.

# State sues e-cigarette giant Juul

12/5/2019 Star Tribune - Vaping Article/Editorial

# Minnesota sues e-cigarette giant Juul

Manufacturer is accused of unlawfully targeting teens.

By STEPHEN MONTEMAYOR  
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Minnesota has become the latest state to sue e-cigarette maker Juul Labs, alleging that its deceptive marketing unlawfully aimed at teens has wiped out a decade of gains in fighting youth tobacco use.

Gov. Tim Walz and Attorney General Keith Ellison, joined at the Capitol by a dozen Minnesota teens, cast the lawsuit Wednesday as a sequel to the state's landmark \$6.5 billion settlement with the tobacco industry 20 years ago.

"There's a new name for Big Tobacco: It's Juul and it's vaping. It's that's simple," Walz said. "But my message to Juul if they're listening today is you can hire your attorneys, you will have your day in court, but we will bring the righteous justice of the state of Minnesota down on Juul."

Minnesota's suit is the latest in a mounting stack of lawsuits, congressional investigations and regulatory efforts targeting San Francisco-based Juul,

See JUUL on A9

◀ **JUUL** from A1 which has rapidly become the dominant e-cigarette manufacturer in the U.S.

The new lawsuit, filed in Hennepin County District Court, seeks to declare Juul responsible for "creating a public nuisance" in Minnesota and violating the state's consumer protection laws.

Minnesota is also seeking an order permanently barring Juul from marketing to youths and forcing the company to fund clinical vaping cessation programs in Minnesota and a "corrective public education campaign" about the dangers of youth vaping.

Ellison said the state would also be seeking monetary relief "for the great harm and injury" Juul caused in Minnesota. Though he gave no dollar figure, Ellison said he would "not refute" the possibility that the damages and civil penalties could approach the size of the first major tobacco suit filed by Minnesota in 1994.

A spokesperson for Juul said Wednesday that while the company had not yet reviewed the suit, it is committed to working with public health officials and others "to combat underage use and convert adult smokers from combustible cigarettes."

In the past year, the company has stopped distributing its mint-, fruit- and candy-flavored Juul pods, suspended all U.S. advertising and shut down its social media accounts in response to a rise in youth vaping.

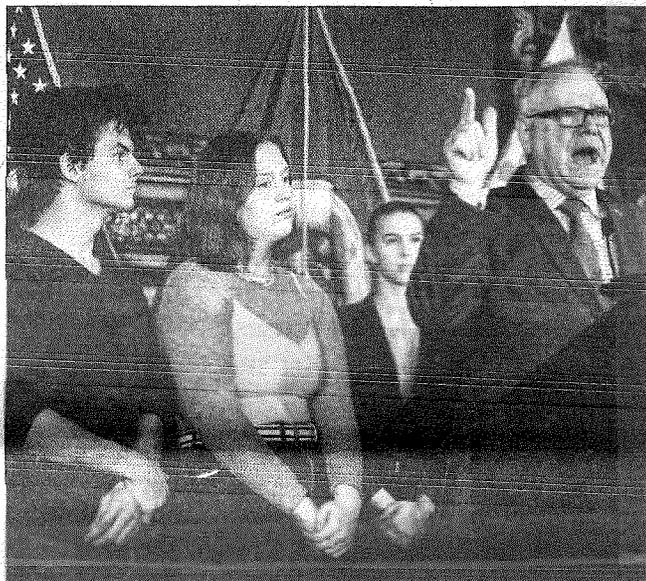
"Our customer base is the world's 1 billion adult smokers, and we do not intend to attract underage users," the spokesperson said.

But Ellison maintained that the company had engaged in a campaign to deceive and mislead Minnesotans of all ages while knowingly profiting off young people.

"Twenty years ago, we led the nation in taking on Big Tobacco," Ellison said. "Now Juul has stepped in to deceive consumers just like Big Tobacco did and has taken it to a whole new level. We're not going to stand by while this company tries to deceive and addict a whole new generation of our youth."

Walz and Minnesota DFL lawmakers also want to pass legislation that would ban flavored tobacco products in the state and raise the smoking age from 18 to 21.

State health officials and medical professionals blame the rise of vaping for reversing decadeslong drops in youth tobacco use. The Minnesota Department of Health reported that 2017 was the first



RENEE JONES SCHNEIDER • renee.jones@startribune.com  
Will Gitler, left, Claire Hering and other Minnesota teenagers affected by vaping joined Gov. Tim Walz to share their stories at Wednesday's news conference at the Capitol.

year in nearly two decades to see an increase in tobacco use among high school students. Three-quarters of youths in eighth through 11th grades also reported that they did not believe there were any health risks associated with vaping.

Health Commissioner Jan Malcolm said Wednesday that the research convinced health officials that the state was in the midst of an epidemic.

Will Gitler, a Hopkins High School senior, said he became addicted to nicotine at age 13 and turned to vaping because he believed it was a safe alternative after repeatedly trying to quit smoking.

"It feels like I've been deceived, like the progress that I thought I was making wasn't progress," Gitler said. "Anyone who's quit any tobacco product knows how incredibly difficult it is, and this was just a big backwards step for me."

Dr. Anne Griffiths, a pediatric pulmonologist at Children's Minnesota, has treated young people for severe vaping-related lung injuries since the summer. She described her patients as "good, smart kids who really felt like they were doing something that was safe" — many of whom reported that being in intensive care was their only shot at getting off nicotine.

"This isn't all about individual choice, we know that," Griffiths said. "It's about the environment. It's about the context in which kids learn about these products — what's normal, what's not — [and] how easy it is to get access to these products."

The vaping industry has come under fire this year amid a nationwide outbreak of vaping-associated lung injuries and deaths — including 125 reports of confirmed

or probable illnesses. At least three vaping-related deaths have been reported in Minnesota.

Research performed in Minnesota pinpointed the cause of the outbreak to be vitamin E acetate in illicit THC vaping products.

Juul, which is partly owned by Altria Group, formerly Philip Morris Cos., has become the primary focus of Congress and public officials racing to respond to a rise in youth tobacco use, estimated to include about 5 million teens.

Juul, founded in 2015, was valued at \$38 billion this year and grew its share of the e-cigarette market from one-quarter of all sales in 2017 to three-quarters this year.

The Federal Trade Commission is probing the company's use of social-media influencers and other marketing techniques that may have been aimed at minors. The Food and Drug Administration is examining the high nicotine content of Juul's refill pods in addition to its marketing practices. And the Department of Justice also has reportedly opened a criminal probe into Juul.

In May, North Carolina became the first state to take legal action against Juul, claiming that its advertising campaigns targeted people who weren't old enough to smoke and that it downplayed the potency and danger of the nicotine in its products.

The company has since also been sued by attorneys general in New York and California, and on behalf of a 19-year-old in Illinois who said he became hooked on nicotine soon after he began vaping at 16.

Stephen Montemayor • 612-673-1755  
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*Handout from 12/10/19 HHS Board Meeting*  
**Notations Identifying Specific Changes to be Reflected in the Amendment to Ordinance No. 67-10: Polk County Smoke-Free Air Ordinance.**

ORDINANCE NO. 11-10

POLK COUNTY SMOKE-FREE AIR ORDINANCE

The County Board of Supervisors of the County of Polk does ordain the Polk County Smoke Free Air Ordinance, as follows:

**Section. 1 Purpose.**

Polk County Government recognizes that smoking of cigarettes and tobacco products is hazardous to an individual's health and may affect the health of nonsmokers/smokers when they are involuntarily in the presence of smoking. Scientific studies have demonstrated that secondhand tobacco smoke is a significant health hazard for children, the elderly, and individuals with cardiovascular disease or impaired respiratory function. Air pollution caused by smoking is an offensive annoyance and irritant. Smoking results in serious and significant physical discomfort to nonsmokers. This Ordinance is adopted for the purpose of protecting the public health, safety, comfort and general welfare of the people of Polk County.

**Section. 2 Definitions.**

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**Assisted living facility** means a community -based residential facility, as defined in s. 50.01 (lg), a residential care apartment complex, as defined in s. 50.01 (ld), or an adult family home, as defined in s. 50.01 (1) (b).

**Child care facility/Daycare Center** shall mean any licensed or certified child care facility, including, but not limited to licensed family day care or licensed group day care centers, licensed day camps, certified school-age programs, and Head Start programs, operated by a child care provider that provides care and supervision for 4 or more children under 7 years of age for less than 24 Hours a day. (s. 49.136 (1) (d)).

**Correctional facility** means any of the following: 1. A state prison, as defined or named in s. 302.01, except a correctional institution under s. 301.046 (1) or 301.048 (4) (b) if the institution is the prisoner's place of residence and no one is employed there to ensure the prisoner's incarceration. 2. A juvenile detention facility, as defined in s. 938.02 (lOr), or a juvenile correctional facility, as defined in s. 938.02 (lOp), except a juvenile correctional facility authorized under s. 938.533 (3) (b), 938.538 (4) (b), or 938.539 (5) if the facility is a private residence in which the juvenile is placed and no one is employed there to ensure that the juvenile remains in custody. 3. A jail, as defined in s. 165.85 (2) (bg), a Huber facility under s. 303.09, a work camp under s. 303.10, a reforestation camp under s. 303.07, or a lockup facility under s. 302.30.

**Cigarette** has the meaning set forth in sec. 139.30(1), Wis. Stats.

*Electronic Delivery 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.*

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**Employment** means any trade, occupation, or process of manufacture or any method of carrying on such trade, occupation, or process of manufacture in which any person may be engaged.

**Enclosed space** shall mean all space between a floor and ceiling that is bounded by walls, doors, or windows, whether open or closed, covering more than 25 percent of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent. A 0.011 gauge screen with an 18 by 16 mesh count is not a wall.

**Entrance** shall mean a doorway and adjacent area which gives direct access to a building from a contiguous street, plaza, sidewalk, or parking lot.

**Lodging establishment** means any of the following:

1. A bed and breakfast establishment, as defined in s. 254.61 (1).
2. A hotel and motel, as defined in s. 254.61 (3).
3. A tourist rooming house, as defined in s. 254.61 (6).

**Person in charge** means the person who ultimately controls, governs or directs the activities aboard a public conveyance or within or at a place where smoking is regulated under this section, regardless of the person's status as owner or lessee.

**Place of employment** means any enclosed place that employees normally frequent during the course of employment, including, but not limited to, common work areas, private office, 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, an employee cafeteria and all other enclosed facilities.

**Private club** shall mean an organization, whether incorporated or not, which is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain and which only sells alcohol beverages incidental to its operation. The affairs and management of the private club are conducted by a board of directors, executive committee, or similar body chosen by the members at an annual meeting. The private club has established bylaws and/or a constitution to govern the club's activities. The private club has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C.A. section 501.

**Private residence** shall mean a premise owned, rented, or leased for temporary or permanent habitation.

**Public place** means any enclosed place that is open to the public, regardless of whether a fee is charged or a place to which the public has lawful access or may be invited.

**Reasonable Distance** means a distance away from entry ways in which smoke may not infiltrate back into the establishment.

**Restaurant** means an establishment defined in Sec. 94.113.

**Retail establishment** means any store or shop in which retail sales is the principal business conducted.

~~*Smoking means inhaling, exhaling, burning or carrying any lighted or heated cigar, cigarette, pipe, or any other lighted or heated tobacco or plant product intended for inhalation, including hookahs and marijuana, whether natural or synthetic, in any manner or in any form. "Smoking" shall include the use of an electronic delivery 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 Ordinance.*~~  
~~*means burning or holding or inhaling or exhaling smoke from any of the following items containing tobacco:*~~

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~~*A lighted cigar.*~~

~~*A lighted cigarette.*~~

~~*A lighted pipe.*~~

~~*Any other lighted smoking equipment.*~~

**Sports arena** means any stadium, pavilion, gymnasium, swimming pool, skating rink, bowling center, or other place where spectator sporting events are held.

**Tavern** means any establishment, other than a restaurant, that holds a "Class B" intoxication liquor license or Class "B" fermented malt beverages license.

**Tobacco product** means any form of tobacco prepared in a manner suitable for smoking but not including a cigarette.

### Section. 3. Smoking prohibited in public places.

- (1) Except as otherwise provided, no person may smoke in any of the following spaces, including, but not limited to:
  - (a) Any enclosed space of a public place or place of employment.
  - (b) Areas in Polk County parks and recreational areas as posted and so designated by the Forestry Department and/or Polk County Parks Maintenance Department including, but not limited to, the fairground buildings & dugouts, hockey arena, playground and swing set areas, and park restrooms.
  - (c) Sports arenas, meaning sports pavilions, stadiums, gymnasiums, health spas, swimming pools, roller and indoor ice rinks, bowling centers, and other similar places where the public assembles to engage in physical

exercise, participate in athletic event competition, or witness a sporting or other event; including the seating areas .

(d) *Child care facilities/daycare centers.*

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~~(e)~~ *Within the outdoor premises of a child care facilities/daycare center when children who are receiving daycare services are present.*

~~(e)~~ *County-owned or leased motor vehicles.*

~~(h)~~ *Within a reasonable distance from all entry ways of public buildings and structures, including, but not limited to, entry ways, park pavilions, etc., except open air facilities.*

~~(i)~~ *Public forms of transportation, including, but not limited to, motor buses, taxicabs, or other public passenger vehicles.*

~~(j)~~ *Correctional facilities.*

(j) Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, and other multiple-unit residential facilities.

(k) Self-service laundry facilities.

(l) Bars, restaurants, taverns, nightclubs, private clubs and cocktail lounges.

(2) The prohibition of smoking under sub. (1) does not apply to any of the following places:

(a) A private residence.

(b) A room used by only one person in an assisted living facility as his or her residence.

(c) A room in an assisted living facility in which 2 or more people reside if every person who lives in that room smokes and each of those people has made a written request to the person in charge of the assisted living facility to be placed in a room where smoking is allowed.

(d) A retail tobacco store that is in existence on June 3, 2009, and in which only the smoking of cigars and pipes is allowed.

(e) A tobacco bar that is in existence since June 3, 2009, and which only the smoking of cigars and pipes is allowed.

#### Section. 4. Signs Required

(1) Signs prohibiting smoking shall be posted conspicuously at every public entrance by the proprietor or other person in charge of each building or structure. Signs in specified outdoor areas designated as non-smoking shall be placed so that the general public has reasonable notice of the prohibition. Signs shall contain the international symbol for no smoking and the word "No Smoking". Each sign and the language contained therein shall be clearly visible from a distance of at least ten (10) feet.

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(2) It shall be unlawful for any person to remove, deface, or destroy any legally required "No Smoking" sign.

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~~general public has reasonable notice of the prohibition. Signs shall contain the international symbol for no smoking and the word "No Smoking". Each sign and the language contained therein shall be clearly visible from a distance of at least ten (10) feet.~~

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~~(2) It shall be unlawful for any person to remove, deface, or destroy any legally required "No Smoking" sign.~~

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### Section. 5. Responsibility of person in charge.

No person in charge may allow any person to smoke in violation of sections 3 at a location that is under the control or direction of the person in charge.

- (1) A person in charge may not provide matches, ashtrays, or other equipment for smoking at the location where smoking is prohibited.
- (2) A person in charge shall make reasonable effort to prohibit persons from smoking at a location where smoking is prohibited by doing all of the following:
  - (a) Posting signs setting forth the prohibition and providing other appropriate notification and information concerning the prohibition.
  - (b) Refusing to serve a person, if the person is smoking in a restaurant, tavern, or private club.
  - (c) Asking a person who is smoking to refrain from smoking and, if the person refused to do so, asking the person to leave the location.
- (3) If a person refuses to leave a location after being requested to do so as provided in paragraph (c), the person in charge shall immediately notify the local law enforcement agency of the violation.
- (4) The person in charge of a restaurant, tavern, private club, or retail establishment may designate an outside area that is a reasonable distance from any entrance to the restaurant, tavern private club, or retail establishment where customers, employees, or persons associated with the restaurant, tavern, private club, or retail establishment may smoke.

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### Section. 6. Enforcement.

- (1) Designated Enforcement Officer: The Polk County Sheriff or designee are designated enforcement officers for purposes of this ordinance. Said designated enforcement officers shall have the power, whenever they may deem it necessary, to enter upon the premises named in this section to ascertain whether the premises are in compliance with this ordinance. The above-listed departments may issue compliance orders and citations pursuant to the provisions of this code.

- (2) The proprietor, employer or other person in charge of premises regulated hereunder, upon either observing or being advised of a violation, shall make reasonable efforts to prevent smoking in prohibited areas by:
  - (a) Approaching smokers who fail to voluntarily comply with this section and requesting that they extinguish their cigarette or tobacco product and refrain from smoking.
  - (b) Refusing service to anyone smoking in a prohibited area.
- (3) Any person who desires to register a complaint under this section may contact the Polk County Sheriff's Department, local law enforcement agencies, or the Polk County Health Department.

**Section. 7 Violation and Forfeiture.**

- (1) **WARNING:** With regards to violations of Sections 4, 5 or 6 of this ordinance, a designated enforcement officer shall issue a warning notice prior to issuance of a citation or taking further enforcement action. With respect to violation of Section 3 of this ordinance, a designated enforcement officer may issue a citation or take other enforcement action without the issuance of such a warning notice.
- (2) **FORFEITURES:**
  - (a) An individual who violates Sec. 3 shall be subject to a forfeiture of not less than \$100, plus court costs, nor more than \$250, plus court costs, for each violation.
  - (b) Any person in charge who violates Sec. 3 shall be subject to a forfeiture of \$100, plus court costs, per day. No person in charge may be required to forfeit more than \$100, plus court costs, in total for all violations of Section 5 or 6 that may occur on a single day.
  - (c) A proprietor, employer or other person in charge of premises regulated hereunder who has violated this ordinance shall be subject to a forfeiture of \$100, plus court costs, per day. No proprietor, employer or other person in charge may be required to forfeit more than \$100, plus court costs, in total for all violations of this ordinance may occur on a single day.
- (3) **ISSUANCE OF CITATIONS**
  - (a) The procedure set forth in Sec. 66.0113(1) (a) (2000), Wis. Stats., for the use and issuance of citations for violations of this ordinance is adopted, authorized and incorporated for the enforcement of this ordinance.

- (b) Form -The citation shall contain the following:
1. The name and address of the alleged violator.
  2. Factual allegations describing the alleged violation.
  3. The time and place of the offense.
  4. The section of the ordinance violated.
  5. A description of the offense in such a manner as can be readily understood by a person making a reasonable effort to do so.
  6. The time at which the alleged violator may appear in court.
  7. A statement, which, in essence, informs the alleged violator:
    - a. That a cash deposit based on the schedule established by this section may be made which shall be delivered to the Clerk of Court prior to the time of the scheduled court appearance.
    - b. That if a deposit is made, no appearance in court is necessary unless he/she is subsequently summoned.
    - c. That if a cash deposit is made and the alleged violator does not appear in court, he/she will be deemed to have entered a plea of no contest or, if the court does not accept the plea of no contest, a summons will be issued commanding him/her to appear in court to answer the complaint.
    - d. That if no cash deposit is made and the alleged violator does not appear in court at the time specified, an action may be commenced to collect the forfeiture.
  8. A direction that if alleged violator elects to make a cash deposit, the statement which accompanies the citation shall be signed to indicate that the statement required under Para. 7 above has been read. Such statement shall be brought with the cash deposit.
  9. Such other information as the County deems necessary.
- (c) Schedule of Deposits -Any person who receives a citation shall be subject to the appropriate forfeiture as set forth in this ordinance.
- (d) Who may Issue -The designated enforcement officer, as recognized under this ordinance shall have authority to issue citations.
- (e) The procedure set forth in Section 66.0113(3), Wis. Stats., relating to a violator's options and procedure on default, is hereby and incorporated herein.
- (f) ~~Non-exclusivity~~ exclusivity.
- a. Adoption of this ordinance does not preclude the County Board from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or other matters.

- b. The issuance of a citation hereunder shall not preclude the County or any authorized officer from proceeding under any other ordinance or law by any other enforcement method to enforce any ordinance, regulation or order.
- c. Notwithstanding enforcement of this ordinance through issuance of citation, enforcement of this ordinance may be initiated upon a referral of a designated enforcement officer to the Office of Corporation Counsel, who may, in addition to the prosecution of a citation issued in conformance with this ordinance, seek an injunction to correct and/or abate the violation or seek court-imposed forfeiture under this ordinance by summons and complaint.

**Section. 8. Additional private prohibitions.**

Nothing in this ordinance shall prevent a proprietor or other person in charge of any private place from prohibiting smoking in any indoor or outdoor area under their control.

**Section. 9. Other applicable laws or regulations.**

This chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by any other law or regulation.

**Section. 10. Severability.**

If any provision of this Ordinance is invalid or unconstitutional, -or if the application of this Ordinance to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the above provisions or applications of this Ordinance which can be given effect without the invalid or unconstitutional provisions or its applications.

~~Funding Source and Amount: Not Applicable~~  
~~Finance Committee Advised: Not Applicable~~  
~~Recommendation: Not Applicable~~  
~~Effective date: Upon Passage and Publication~~

~~Approved as to Form:~~  
~~Jeffrey B. Fuge, Corporation Counsel~~

~~Date Submitted to the Polk County Board: October 12, 2010.~~

~~Sponsored and Submitted By:~~

~~Patricia Schmidt~~

At its regular business meeting on October 12, 2010, the Polk County Board of Supervisors adopted the above ordinance, Ordinance No. ~~7-10~~ POLK COUNTY SMOKE-FREE AIR ORDINANCE, by a vote of 12 in favor and 0, against.

William Johnson, IV, County Board Chairperson

Attest: Carole Wondra, Polk County Clerk

The Polk County Smoke Free Ordinance was published in the Inter County Leader on the ~~11~~ 16 day of ~~October~~ November, 2010.

L11 utb/1. jj 2HJ4  
Carole Wondra, County Clerk

STATE OF WISCONSIN

SS

COUNTY OF POLK

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I, ~~Carole T. Wondra~~, Clerk for Polk County, do hereby certify that the attached is a full, true and correct copy of Polk County Ordinance No. ~~607~~ 10

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that was adopted by the Polk County Board of Supervisors on October 1, 2010.

Carole T. Wondra 10-11-10

Carole T. Wondra Polk County Clerk

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