

1 027-062020

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3 **ORDINANCE: Amend Section 11.08 of the General Code of Winnebago County: County Health**  
4 **Officer**

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

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**WHEREAS**, in December 2019, a novel strain of the coronavirus was detected, now known as COVID-19,  
9 and it has spread throughout the world, including every state in the United States; and

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**WHEREAS**, on January 30, 2020, the World Health Organization declared COVID-19 to be a Public Health  
11 Emergency of International Concern; and

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**WHEREAS**, on March 12, 2020, the Governor of the State of Wisconsin declared a public health emergency  
13 in the State of Wisconsin in response to COVID-19; and

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**WHEREAS**, on March 13, 2020, the President of the United States proclaimed a National Emergency in  
15 response to COVID-19; and

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**WHEREAS**, on March 20, 2020, Winnebago County Executive Mark L. Harris, by proclamation, declared that  
17 a state of emergency exists in Winnebago County as a result of the COVID-19 pandemic consistent with  
18 §323.14(4)(a), Wis. Stats.; and

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**WHEREAS**, on April 28, 2020, the Winnebago County Board of Supervisors, pursuant to §323.14(4)(b), Wis.  
20 Stats., ratified the March 20, 2020 Proclamation Declaring the Existence of a County Emergency issued by  
21 Winnebago County Executive Mark L. Harris; and

22

**WHEREAS**, millions of people around the world have tested positive for COVID-19, including more than 1.5  
23 million individuals in the United States, thousands of individuals in Wisconsin, and more than 200 individuals in  
24 Winnebago County; and

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**WHEREAS**, COVID-19 is present in every county throughout the State of Wisconsin, including Winnebago  
26 County; and

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**WHEREAS**, as a novel disease with no certain immunity and no vaccination currently available, the entire  
28 population is at risk; and

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**WHEREAS**, physical contact and close proximity to other individuals may cause the spread of COVID-19,  
30 thereby endangering the public and placing undue strain on the healthcare system; and

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**WHEREAS**, “physical distancing,” meaning a distance of six (6) feet maintained between all individuals, is a  
32 public health tool that may be used to limit the spread of disease; and

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**WHEREAS**, it is essential to use all available tools as is reasonable and necessary to stop the transmission  
34 of COVID-19; and

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**WHEREAS**, Wisconsin State Law provides broad authority and power for local health officials to prevent,  
36 control, and suppress COVID-19; and

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**WHEREAS**, §252.03(1), Wis. Stats., provides that “the local health officer shall promptly take all measures  
38 necessary to prevent, suppress, and control communicable diseases”; and

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**WHEREAS**, §252.03(2), Wis. Stats., provides that “local health officers may do what is reasonable and  
40 necessary for prevention and suppression of disease”; and

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**WHEREAS**, §252.03(2), Wis. Stats., provides that “local health officers may forbid public gatherings when  
42 deemed necessary to control outbreaks or epidemics”; and

43           **WHEREAS**, as required by Wis. Stats. 252.03(1) the Winnebago County Health Department investigated the  
44 circumstances of COVID-19 appearing locally and made a full report to the Winnebago County Board, the Board of  
45 Health, and the Wisconsin Department of Health Services; and

46           **WHEREAS**, §66.0113(1), Wis. Stats., states the County Board may by ordinance adopt and authorize the  
47 use of a citation to be used for violations of ordinances, including ordinances for which a statutory counterpart exists;  
48 and

49           **WHEREAS**, §66.0113(2), Wis. Stats, indicates that citations may be issued by law enforcement officers of  
50 Winnebago County and also that the County Board may designate by ordinance or resolution other county officials  
51 who may issue citations with respect to ordinances which are directly related to the official responsibilities of the  
52 officials. Further, the officials may delegate, with the approval of the County Board, the authority to  
53 employees/designees; and

54           **WHEREAS**, consistent with state statute, locally authorizing the Winnebago County Health Officer to take  
55 measures to prevent, suppress, and control COVID-19 in Winnebago County Health Department's jurisdiction,  
56 coupled with authorizing the Winnebago County Health Officer, his/her designees, and law enforcement to issue  
57 penalties for violating state and local laws designed to suppress communicable diseases, will help contain the impact  
58 of COVID-19 in Winnebago County.

59           **NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY BOARD OF SUPERVISORS THAT IT HEREBY**  
60 **ORDAINS** that Section 11.08: County Health Officer, of the General Code of Winnebago County is hereby amended  
61 and shall read as follows:

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63           **11.08 COUNTY HEALTH OFFICER**

64           **(1) APPOINTMENT:**

65           (a) A County Health Officer possessing the qualifications set forth in §251.06, Wis. Stats. (1993), shall be  
66 appointed by the Winnebago County Executive pursuant to §59.17(2)(br) and §251.03(2), Wis. Stats., subject to  
67 confirmation by the Winnebago County Board of Supervisors. The County Health Officer shall serve at the pleasure of  
68 the County Executive.

69           **~~(2) DUTIES AND RESPONSIBILITIES:~~**

70           **~~(a) The duties and responsibilities set forth in §251.06(3), Wis Stats (1993), shall be performed by the~~**  
71 **~~Winnebago County Health Officer, and he/she shall administer the policies, programs, and services of the~~**  
72 **~~Winnebago County Health Department.~~**

73           **~~(2) PURPOSE:~~** The purpose of this subchapter is to promote and protect public health, safety, and general  
74 welfare.

75           **~~(3) AUTHORITY:~~** The authority for this subchapter is §252.03, Wis. Stats., §252.25, Wis. Stats., and DHS  
76 145.06, Wis. Admin. Code (as each currently exists or is hereinafter revised), which are incorporated herein by  
77 reference as if fully set forth, and §66.0113, Wis. Stats., and section 25.04 of the General Code of Winnebago  
78 County.

79           **~~(4) DUTIES AND RESPONSIBILITIES:~~** The duties and responsibilities set forth in §251.06(3), Wis. Stats. (1993),  
80 shall be performed by the Winnebago County Health Officer, and he/she shall administer the policies, programs, and  
81 services of the Winnebago County Health Department.

82 (a) The Winnebago County Health Officer or designee, upon the appearance of any communicable  
83 disease in Winnebago County, shall immediately investigate all the circumstances and make a full report to the  
84 Winnebago County Board and Wisconsin Department of Health Services.

85 (b) The Winnebago County Health Officer will promptly take all measures necessary to prevent, suppress,  
86 and control communicable diseases and will report to the Winnebago County Board the progress of the  
87 communicable diseases and the measures used against them, as needed, to keep the County Board fully informed,  
88 or at such intervals as the Wisconsin Department of Health Services' Secretary may direct.

89 (c) The Winnebago County Health Officer may inspect schools, places of employment, and other public  
90 buildings within his or her jurisdiction as needed to determine whether the buildings are kept in a sanitary condition.

91 (d) The Winnebago County Health Officer may establish systems of disease surveillance and inspection to  
92 ascertain the presence of any communicable disease within his or her jurisdiction. The Winnebago County Health  
93 Officer may, with a special inspection warrant issued under § 66.0119, Wis. Stats., enter any private property,  
94 building, place of employment, vessel or conveyance not open to the public to inspect the same, to issue orders,  
95 and/or to remove therefrom any person affected by a communicable disease if necessary to promote the safety and  
96 welfare of the public.

97 (e) The Winnebago County Health Officer may issue orders for guarding against the introduction of any  
98 communicable disease into his or her jurisdiction, for the control and suppression of communicable diseases, for the  
99 quarantine and disinfection of persons, localities and things infected or suspected of being infected by a  
100 communicable disease and for the sanitary care of schools, places of employment, public buildings, and other  
101 places.

102 (f) The Winnebago County Health Officer may close schools and forbid public gatherings in schools,  
103 churches, places of employment, public buildings, private property, and other places, when deemed necessary, to  
104 control outbreaks, epidemics or pandemics.

105 (g) Any rule or order may be made applicable to the whole or any specified part of Winnebago County or to  
106 any vessel or other conveyance. Orders that are issued under the authority herein supersede conflicting or less  
107 stringent regulations, orders or ordinances.

108 (h) The Winnebago County Health Officer may authorize and implement all emergency measures  
109 necessary to control communicable diseases and do what is reasonable and necessary for the prevention and  
110 suppression of disease including, but not limited to prohibiting public and private gatherings when deemed necessary  
111 to control outbreaks, epidemics, or pandemics, and shall advise the Wisconsin Department of Health Services of  
112 measures taken.

113 (i) Under this Ordinance, no person may interfere with an investigation of any place or its occupants by  
114 the Winnebago County Health Officer or his/her designees.

115 **(5) COMPLIANCE:**

116 (a) Written Orders: Compliance with this subchapter shall include compliance with written orders issued  
117 under this subchapter or state health laws by the Winnebago County Health Officer or his/her designees to abate  
118 and/or contain a communicable disease or to bring any other situation or condition in noncompliance with this  
119 subchapter into compliance.

120 (b) Noncompliance: Noncompliance with this subchapter and/or with a written order from the Winnebago  
121 County Health Officer or his/her designees shall be cause for penalties pursuant to Paragraph (7) below.

122 **(6) ENFORCEMENT:**

123 (a) **Written Order:** When a violation of this subchapter is encountered, the Winnebago County Health  
124 Officer or his/her designees may issue a written order to the violator. This order shall specify the following:  
125 1. The nature of the violation and the steps needed to abate and/or correct the violation.  
126 2. The time period in which the violation must be corrected and/or abated (usually 1 to 5 days or 10  
127 to 30 days depending on the nature of the violation).  
128 3. The penalty or penalties the violator will be subject to if the apparent violation is not abated and/or  
129 corrected within the given time period.

130 (b) **Exceptions to Written Order:** In cases where a violation poses an immediate human health threat as  
131 determined by the Winnebago County Health Officer or his/her designee, or in the case of repeated occurrences of  
132 the same violation by the same persons, actions specified in Paragraph 8 may be initiated immediately.

133 (7) **APPEALS:** Any Order issued by the Winnebago County Health Officer may be appealed to the Winnebago  
134 County Board of Health within 30 days of issuance which may rescind, amend, or continue such Order by majority  
135 vote of the members present. Said Order will stand until reviewed by the Winnebago County Board of Health.

136 (8) **VIOLATIONS AND PENALTIES:**

137 (a) Any person who violates or obstructs this Ordinance or an order of the Winnebago County Health  
138 Officer under Paragraph 4(b) or (d) above is subject to the following:

- 139 1. The issuance of a citation pursuant to section 25.04 of the General Code of Winnebago County  
140 and §66.0113, Wis. Stats. A citation hereunder may be issued by the Winnebago County Health Officer or  
141 Winnebago County Health Department jurisdiction law enforcement officers.
- 142 2. A minimum forfeiture of \$100 to a maximum forfeiture of \$500 for each violation together with the  
143 costs of prosecution.
- 144 3. The issuance of a summons and complaint, and entry of a civil judgment for a forfeiture and  
145 injunctive (temporary and/or permanent) relief.
- 146 4. Suspension of any license or permit issued by the Winnebago County Health Department.

147 (b) A separate offense shall be deemed committed each day during or on which a violation occurs or  
148 continues.

149 (c) Proceeding under any other ordinance or law relating to the same or any other matter shall not  
150 preclude enforcement under this Ordinance.

151 (9) **SEVERABILITY:** Should any portion of this Ordinance be declared unconstitutional or invalid by a court of  
152 competent jurisdiction, the remainder of this Ordinance shall not be affected.

153 (10) **EFFECTIVE DATE:** This Ordinance shall become effective as of the date following the date of its  
154 publication.

155 Respectfully submitted by:

156 **BOARD OF HEALTH**

157 Committee Vote: **7-0**

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

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

160 \_\_\_\_\_  
161 Mark L Harris  
162 Winnebago County Executive