

AMENDED
096-102020

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

TO THE WINNEBAGO COUNTY BOARD OF SUPERVISORS:

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

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

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

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

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

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

WHEREAS, millions of people around the world have tested positive for COVID-19, including more than 7 million individuals in the United States, more than 100,000 individuals in Wisconsin, and more than 4,400 individuals in Winnebago County; and

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

WHEREAS, it is prudent to use all available tools to reasonably address communicable diseases, including COVID-19; and

WHEREAS, Chapter 252, Wis. Stats, "Communicable Diseases" outlines the duties and responsibilities of a public health officer related to communicable diseases (See Appendix A); and

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

WHEREAS, §66.0113(1), Wis. Stats., states the County Board may by ordinance adopt and authorize the use of a citation for violations of ordinances, including ordinances for which a statutory counterpart exists (See Appendix B); and

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

43 **WHEREAS**, §66.0119, Wis. Stats., provides in pertinent part, a local health officer may apply for, obtain,
44 and execute a special inspection warrant (See Appendix B); and

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

50 **NOW, THEREFORE, BE IT RESOLVED BY THE WINNEBAGO COUNTY BOARD OF SUPERVISORS**
51 **THAT IT HEREBY ACKNOWLEDGES AND ACCEPTS** the duties, responsibilities, and enforcement
52 mechanisms as outlined in Chapter 252, Wis. Stats.; §§66.0113 and 66.0119, Wis. Stats., §251.06(3), Wis.
53 Stats., DHS 145.05 and 145.06, Wis. Admin. Code, and Section 25.04 of the General Code of Winnebago
54 County (see Appendices A, B, C, D, and E), as the duties, responsibilities and enforcement mechanisms for its
55 Public Health Officer.
56

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

61 **11.08 COUNTY HEALTH OFFICER**
62

63 (1) **APPOINTMENT:**

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

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

70 (3) **AUTHORITY:** The authority for this subchapter is Chapter 252, Wis. Stats.; §§66.0113 and 66.0119,
71 Wis. Stats., §251.06(3), Wis. Stats., DHS 145.05 and 145.06, Wis. Admin. Code, and Section 25.04 of the
72 General Code of Winnebago County, which are incorporated herein by reference as if fully set forth at length
73 (See Appendices A, B, C, D, and E).

74 (4) **DEFINITIONS:**

75 (a) **Individual Order:** ~~This Order applies to a specific individual(s) or a specific entity(ies).~~ **Any health**
76 **order under this Ordinance applicable to a specific person, group of persons, or gathering spot that is**
77 **deemed reasonable and necessary to prevent and suppress communicable disease.**

78 (b) **General Order:** ~~This Order applies to the entire County or a portion of the County.~~ **Any health order**
79 **under this Ordinance that impacts the public at large that is deemed reasonable and necessary to**
80 **prevent and suppress communicable disease. Any health order not deemed an Individual Order will be**
81 **considered a General Order. Any general health order under this Ordinance shall not include a general**
82 **workplace shutdown.**

83 (5) **DUTIES AND RESPONSIBILITIES:** The duties and responsibilities as set forth in Chapter 252, Wis. Stats.;
84 §§66.0113 and 66.0119, Wis. Stats., §251.06(3), Wis. Stats., and DHS 145.05 and 145.06, Wis. Admin. Code,

85 shall be performed by the Winnebago County Health Officer, and he/she shall administer the policies, programs, and
86 services of the Winnebago County Health Department. These duties are outlined in Appendices A, B, C, and D
87 verbatim from Chapter 252, Wis. Stats.; §§66.0113 and 66.0119, Wis. Stats., §251.06(3), Wis. Stats., and DHS
88 145.05 and 145.06, Wis. Admin. Code, and are adopted as Public Health Officer Duties as part of this Ordinance.

89 (6) **ORDERS:**

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

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

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

99 (d) Orders will be identified as General Orders or Individual Orders as defined in the definitions section
100 of this Ordinance and conform to the following:

101 1. Any individual Order and potential enforcement action must conform to DHS 145.05 and 145.06,
102 Wis. Admin. Code, and §§66.0113 and 66.0119, Wis. Stats.

103 2. Any General Order must be based upon the duties, responsibilities, and powers as identified in
104 Chapter 252, Wis. Stats., §251.06(3), Wis. Stats., and §§66.0113 and 66.0119, Wis. Stats. Any General Order is
105 advisory only until reviewed and reaffirmed or revised and affirmed by the Winnebago County Board of
106 Supervisors at its next regularly-scheduled meeting date or within 14 days, whichever is earlier. All general
107 orders will specify a duration for the order and an expiration date, but will have a maximum duration of 60 days
108 unless otherwise authorized by the County Board.

109 (7) **COMPLIANCE:**

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

114 (b) Noncompliance: Noncompliance with this subchapter and a written order from the Winnebago
115 County Health Officer or his/her designees shall be cause for penalties pursuant to Paragraph (9), Violations and
116 Penalties, below.

117 (8) **ENFORCEMENT:**

118 (a) Written Order: When a violation of this subchapter is encountered, the Winnebago County Health
119 Officer or his/her designees may issue a written order to the violator in accordance with DHS 145.05 and 145.06,
120 Wis. Admin. Code. This order shall specify the following:

- 121 1. The nature of the violation and the steps needed to abate and/or correct the violation.
- 122 2. The time period in which the violation must be corrected and/or abated (usually 1 to 5 days or 10
123 to 30 days depending on the nature of the violation).
- 124 3. The penalty or penalties the violator will be subject to if the apparent violation is not abated
125 and/or corrected within the given time period.

126 (b) Exceptions to Written Order: In cases where a violation poses an immediate human health threat as
127 determined by the Winnebago County Health Officer or his/her designee, or in the case of repeated occurrences
128 of the same violation by the same persons, actions specified in Paragraph 9, Violations and Penalties, below
129 may be initiated immediately in accordance with Chapter 252, Wis. Stats.; §§66.0113 and 66.0119, Wis. Stats.,
130 DHS 145.06, Wis. Admin. Code, and Section 25.04 of the General Code for Winnebago County.

131 (9) **VIOLATIONS AND PENALTIES:**

132 (a) Any person who violates or obstructs this Ordinance or an order of the Winnebago County Health
133 Officer under Paragraph 6 (a), 6 (c), and 8 (a) above is subject to the following:

134 1. The issuance of a citation pursuant to Section 25.04 of the General Code of Winnebago County
135 §66.0113, Wis. Stats, and §252.25, Wis. Stats. A citation hereunder may be issued by the Winnebago County
136 Health Officer or Winnebago County Health Department jurisdiction law enforcement officers. Any citation
137 arising from enforcement on this Ordinance will utilize the Uniform Citation form set forth in §66.0113, Wis Stats.,
138 (See Appendix E, B, and A).

139 2. A minimum forfeiture of \$100 to a maximum forfeiture of \$500 for each violation together with the
140 costs of prosecution. (See Section 25.04 of the General Code of Winnebago County and §252.25, Wis. Stats.)

141 3. The issuance of a summons and complaint, and entry of a civil judgment for a forfeiture and
142 injunctive (temporary and/or permanent) relief.

143 4. Suspension of any license or permit issued by the Winnebago County Health Department.

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

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

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

150 (11) **EFFECTIVE DATE**: This Ordinance shall become effective as of the date following the date of its
151 publication.

152 Respectfully submitted by:

153 **BOARD OF HEALTH**

154 Committee Vote: **7-1**

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

156 Approved by the Winnebago County Executive this ____ day of _____, 2020.

159 _____
160 Mark L Harris
161 Winnebago County Executive