



June 16, 2020

Winnebago County Board of Supervisors
415 Jackson Street
Oshkosh, WI 54901

Dear County Board Supervisor:

On behalf of the Oshkosh Chamber of Commerce, I would like to provide you with our perspective on the County Executive's proposed ordinance that would grant the Public Health Department Director exclusive authority to impose a county-wide shutdown order.

As you know, County Executive Harris attempted to impose this type of an order after the Wisconsin Supreme Court ruled that the Secretary of the Department of Health Services shutdown was unlawful. The Supreme Court ruling immediately rescinded the State's Safer At Home Order and its extension. In response to this, County Executive Harris issued his own Safer At Home order for Winnebago County. His order was lifted on the same day of issuance when it was discovered that the County did not have the authority to continue this lockdown. While County Executive would minimize the impact of his proposed ordinance, **this ordinance gives the Director of the Public Health Department sole authority and enforcement powers** to issue wide-ranging shutdown orders to close businesses, schools and forbid public gatherings in schools, churches, places of employment, public buildings, private property, and other places, when deemed necessary.

We have several issues of concern on provisions outlined in the proposed ordinance. We believe that these items are too far reaching, too broad and provide the Public Health Director too much authority and discretion. Specifically:

- The Public Health Director has the sole authority to issue orders to close schools and forbid public gatherings in schools, churches, places of employment, public buildings, private property, and other places, when deemed necessary.
- Any rule or order may be made applicable to the whole or any specific part of Winnebago County.
- Orders that are issued under the authority herein supersede conflicting or less stringent regulations, order or ordinances.
- The Public Health Director may (arbitrarily) authorize and implement, at the Director's discretion, all emergency measures necessary to control communicable diseases and do

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what is reasonable and necessary for the prevention and suppression of disease including, but not limited to prohibiting public and private gatherings when deemed necessary.

- Provides enforcement provisions.

This proposed County Ordinance should be alarming to all County residents. The Wisconsin Supreme Court deemed the state's Safer At Home Order and its extension as unlawful. Now, the County Executive is attempting to put in place an Ordinance that the Supreme Court has previously ruled unlawful. The intent of the Court's ruling was not to have their ruling supplanted by another unit of government. The intent was also to further provide for transparency and due process, and certainly not override the County Board's legislative authority relative to implementing Lockdown Orders.

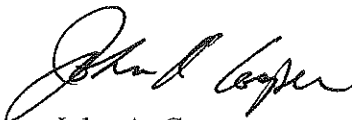
This proposed Ordinance provides for a tremendous amount of authority to affect business operations and public and private gatherings at the sole arbitrary discretion of the Public Health Director. The proposed Ordinance provides for no metrics to determine whether a County Lockdown Order is needed or is appropriate. It further does not provide for any legislative oversight by the County Board.

In discussing this proposed Ordinance with County Executive Harris, he doubted that, if enacted, the County's Public Health Director would ever impose this Ordinance. If that is the case, it begs the question – Why take it up? County Executive Harris further asserts that state statute allows for broad power of the Public Health Department to impose these types of Orders. While that may be the case in part, it certainly does not make it right. Additionally, I would doubt that the State Legislature, in 1981, ever envisioned an event where a county Public Health Director would issue a county-wide shutdown order. If enacted, there's a good bet it will be subjected to a legal challenge. In any event, the State Legislature needs to cure this statute.

The recent Safer At Home Order devastated the economy. Companies lost business and livelihoods. People were laid-off due to this mandatory shutdown order and many people still remain laid-off. The economy is slowly coming back, but still has a ways to go to get us back to where we were only a few months ago. To introduce this Ordinance at this time is irresponsible and unconscionable. This proposed Ordinance is once again a classic over-reach and puts way too much power in one person's hands.

We would ask that the Winnebago County Board reject this proposal.

Sincerely,



John A. Casper
President & CEO

Cc: Mark Harris, Winnebago County Executive