

Frequently Asked Questions

Webex Informational Meeting – October 7, 2020

Proposed Contagious Disease Emergency Response Local Health Ordinance

Q: Why does the state not pass this versus each county trying to pass it individually?

A: A local ordinance such as this is needed to authorize local enforceable action. As to the question of why the state legislature has declined to act to adopt statewide public health standards in response to the present pandemic, that is a very good question to ask your local state legislator.

Q: What kind of health issues does this ordinance allow health orders to be written for?

A: Highly infectious, novel or unusually difficult to treat communicable disease that significantly threatens public health.

Q: Why have the health officer act before the City Council meets and votes? Can't an emergency meeting of that group be called very quickly?

A: Consistent with state law this ordinance authorizes a local health officer to act in a time of public health emergency with retained legislative oversight. While emergency meetings can be called to review the action taken, the policy of this ordinance is that we are best served by a prompt, evidence-based, professional response to this type of potential local emergency as we are with other emergencies.

Q: Is there local legislation that is comparable to the enforcement side of this? What kind of penalties would incur the fine specified in the ordinance?

A: The enforcement and any fines are consistent with other city ordinances. The city code of ordinances is available at the city's website and can be reviewed by anyone for the various ordinances on such matters as refuse, housing, clean air, noise, among many standards found by city council to further our individual and collection health, safety and welfare.

Q: What will be the impact of this ordinance on small businesses?

A: Any impact would be consistent with impact across the community on matters necessary to respond to a common public health threat such as the current pandemic. Any order would have community wide application and must avoid classifications focused on just one group of business or sector of the community.

Q: Why adopt an ordinance for general orders of general application when most people will comply? Why not just have advisory orders?

A: Unfortunately, many laws are written for those very few people who will not comply with a request or advisory order. Communicable diseases can be deadly. There needs

to be authority to enforce the order for the people who choose not to comply with an advisory order. A finding by the local health officer that a voluntary order is necessary must be made before an enforceable order is issued.

Q: What is the definition of a highly communicable disease in the ordinance?

A: It is not specifically defined by the ordinance, but will rely on the specifications of the best available science.

Q: Can you clarify whether this ordinance would make a difference in the ability to issue citations to businesses / individuals?

A: The ordinance authorizes the issuance of citations for the failure to comply with an order of the Local Health Officer (LHO). Before a citation can be issued there must first be an order from the LHO. Then, and depending on the nature of the order from the LHO, it is possible for a business or individual to receive a citation.

Q: How many times, and with what frequency can the government issue a citation under this ordinance?

A: The first approach would be to work with the individual or business to resolve the problem prior to issuing a citation. If that doesn't meet with success then the LOH may issue an advisory order requiring compliance with the order. If there is no compliance then a citation would be issued. Each new occurrence of violation could result in a citation.

Q: Does this ordinance require businesses to enforce health orders (such as wearing a mask, for example)?

A: No, but businesses are expected to make a good-faith effort to ensure not only their own compliance, but also that patrons and visitors make a good-faith effort to comply with any order. For example, when the smoking ordinance, and later State statute, was passed that prohibited indoor smoking, there first was a vast amount of education performed, follow-up notices, followed eventually by citations to both the individual violators and the business as applicable.

Q: Could vaccination be enforced at the local level with a state requirement?

A: There is no authority to force vaccination through this ordinance. Immunizations are regulated by Wisconsin Statutes Section 252.04.

Q: Is it possible that there could be unintended consequences of this order, such as layoffs, business closure, having to stay home with school-age kids, as examples.

A: There always exists the possibility that there will be unintended consequences with any order, but the ordinance is written in such a way as to limit categorical closures as much as possible and be only as restrictive as necessary to limit unintended consequences.

Q: The ordinance also allows for orders in non-emergency settings. Please describe what non-emergency could require an order under this ordinance.

A: "Emergency" refers to the formal declaration of an emergency by the city council or the county board. Communicable disease can exist with a need to control through order outside of a formal declaration of emergency by the city or county.

Q: If the Eau Claire chamber does not support this ordinance, why should the county board, council or citizens?

A: The County Board and City Council need to decide for themselves whether the ordinances are a desirable policy approach to managing communicable disease. The ordinance provides the means for an informed, professional response, with legislative oversight and constitutionally required substantive and procedural safeguards and provides a known framework for local response to a communicable disease.

Q: If this ordinance passes, what can the public do if an order is made, not undone by the city, and the public does not like it?

A: Continue to reach out to your local representatives (city council or county board); they can request at any time that the governing body review the ordinance. The governing bodies have the authority to convert the ordinance to an advisory order. Just because the City Council or County Board does not put an order on their agenda right away, does not mean they cannot do so in the future.

Q: Where has something like this passed?

A: Wisconsin is unique in that our state legislature has refused to act to allow for a unified, state-wide approach to responding to COVID-19, so there has been a need to respond at the local government level. Eau Claire's ordinance is unique among all those in the state due to the many substantive and procedural safeguards and legislative oversight.

Q: Why does there need to be an ordinance pertaining to health? Health is a personal responsibility.

A: The health choices of the individual can have an impact on the general public especially when it comes to diseases that are communicable. Failure to take the appropriate action to prevent the spread of communicable disease will cause the spread of the disease to others, and may also result in the overwhelming of our health care system, a resource that is needed by all.

Q: What specifically are you seeing in Eau Claire that indicates this ordinance is necessary for the safety of the total population?

A: This ordinance is not aimed at any one particular disease. It is being created in response to recent Wisconsin Supreme Court decisions that regulate the authority of the LHO. This ordinance creates the parameters, consistent with those decisions on how the LHO can issue orders, and provides for supervision (legislative control) of those orders by the city council and the county board.