



CITY OF WAUKESHA

Administration

201 Delafield Street, Waukesha, WI 53188
 Tel: 262.524.3701 fax: 262.524.3899
 www.waukesha-wi.gov

| | |
|---|--|
| Committee: None | Date: |
| Common Council Item Number: 20-0589 | Date: 5/19/2020 |
| Submitted By: Kevin Lahner | City Administrator Approval: Kevin Lahner, City Administrator KL |
| Finance Department Review: Diane Gard, Interim Finance Director Click here to enter | City Attorney's Office Review: Brian Running, City Attorney BER |
| Subject: Repeal of Municipal Code §11.45, and possible amendment to replace Safer at Home order with local regulation. | |
| Details: <p>On March 27, the Mayor signed an Emergency Order creating Municipal Code §11.45, which made a violation of the DHS's Emergency Order #12, the "Safer at Home" order, a municipal violation carrying a penalty of \$100. This was done at the request of the Police Department, because the DA's office had indicated that it would not be prosecuting violations of the order, and our PD needed authority to enforce the order. §11.45 incorporated Emergency Order #12 and any successors. The Supreme Court's decision yesterday struck down Emergency Order #28, which was a successor to EO #12. It is our opinion that this nullifies our §11.45. The Supreme Court decision does not affect the ability of counties, cities or villages to enact their own orders to replace the Safer at Home order.</p> <p>The City now has the option either to repeal §11.45 altogether, or to amend it to continue a local order to replace the Safer at Home order. Many other large cities in Wisconsin are either in counties that have health departments that are continuing their orders, or have their own health departments that are continuing their orders. Waukesha County has indicated that it will not be issuing any replacement order, and Waukesha does not have its own health department. The city does have the ability to create an order of its own under Wis. Stat. §323.14.</p> <p>The City Attorney will provide examples of local orders for consideration and discussion, however, because they are not ready for attachment to the agenda by deadline, they will be provided separately to the Council prior to the meeting as soon as they are ready.</p> | |
| Options & Alternatives: The options are to repeal §11.45 and not replace it, or to amend it to create our own order to replace the Safer at Home order. | |
| Financial Remarks: Financial impact, if any, is impossible to determine at this time. | |
| Executive Recommendation: This is a pure policy decision within the Common Council's purview. There is no recommendation from City staff other than to consider it carefully and act as appropriate in the best interests of the citizens of Waukesha. | |

