THE CITY OF ASHEVILLE

Staff Report

Council Meeting Date: December 8, 2020

Subject: Fire Code Occupancy Limit Enforcement Clarifications

Staff Resource(s): Brad Branham, City Attorney

Action Requested: Adopt an ordinance amending the enforcement procedures for violations of the building occupancy limitations.

Background:

- At the beginning of the COVID-19 pandemic, State and Local emergency declarations required that certain non-essential businesses close in order to curb the spread of the disease.
- As businesses have been allowed to re-open, State and Local emergency declarations have required that some operate at reduced capacities, typically expressed as a certain percentage of their maximum occupancy under the North Carolina Fire Prevention Code.
- In the course of preparing to enforce occupancy limitations set forth in State and Local emergency declarations, City staff has identified a need to amend the penalties it imposes for violations of the occupancy limits under the North Carolina Fire Prevention Code.
- As revised, a first violation of the occupancy limits of the North Carolina Fire Prevention Code would be punishable by a warning and/or a $50 fine, a second by a $100 fine, and third or subsequent violations punishable by a $500 fine and/or by the Fire Marshal ordering the evacuation of a building, premise, or portion thereof to abate the overcrowded condition.

Council Goal(s):

- A clean and healthy environment.

Committee(s):

- None

Pro(s):

- Allows for escalating penalties based on repeated violations of the North Carolina Fire Prevention Code.

Con(s):

- None noted.

Fiscal Impact:

- None; any fines imposed would be paid to the school system pursuant to Article IX Section 7 of the North Carolina Constitution.

Suggested Motion:

- Motion to adopt an ordinance amending the enforcement procedures for violations of the building occupancy limitations imposed by the North Carolina Fire Prevention Code.

Attachment(s)

- Ordinance

ORDINANCE NO. _____

ORDINANCE AMENDING THE ENFORCEMENT PROCEDURES FOR VIOLATIONS OF BUILDING OCCUPANCY LIMITATIONS.

WHEREAS, the City has, pursuant to Sections 6-1 and 6-2 of the City Code, adopted the North Carolina Building Code: Fire Prevention Code, and made certain amendments thereto; and

WHEREAS, the City has identified a need to make changes to the manner in which it enforces violations of those portions of the Fire Code that pertain to the maximum occupancy limits for certain buildings;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

1. Section 6-2 is hereby amended to add a subsection 109.3.1.5 reading: Violations of Sec. 107.6 concerning overcrowding, as well as any future iterations thereof, shall be punished as follows: First Offense – Written warning or as a Class D violation; Second Offense – Class C violation; Third Offense – Class A violation. Additionally, upon the discovery of any Violation of the North Carolina Building Code: Fire Prevention Code Sec. 107.6 concerning Overcrowding, the fire marshal, or the fire marshal's designee, is authorized to order the evacuation of a building, premise, or portion thereof to abate the overcrowded condition. The enforcement procedures set forth in this section are in addition to, and cumulative of, the fire marshal's existing authority to order the immediate evacuation of a building upon discovery of conditions that pose imminent safety risks.

2. If any section, subsection, clause or phrase of this ordinance is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance;

3. All ordinances and clauses of ordinances in conflict herewith be and are hereby repealed to the extent of such conflict; and

4. This ordinance amendment is effective upon adoption.

Read, approved, and adopted this 8th day of December, 2020.

_____ _____

City Clerk Mayor

Approved as to form:

_____

City Attorney