THE CITY OF ASHEVILLE

STAFF REPORT

Council Meeting Date: March 24, 2020

Subject: Delegation of Authority Pursuant to N.C. Gen. Stat. § 166A-19.31

Staff Resource(s): Eric Edgerton, Senior Assistant City Attorney

Action Requested: Adoption of an ordinance delegating to the Mayor of the City of Asheville the authority to regulate by proclamation any activities or conditions the control of which may be reasonably necessary to maintain order and protect lives or property during the state of emergency that has been declared in relation to the spread of COVID-19.

Background:

- N.C. Gen. Stat. § 166A-19.31(b) authorizes municipalities to adopt five categories of regulations in times of a declared state of emergency.
- Pursuant to N.C. Gen. Stat. § 166A-19.31(a), the Asheville City Council has delegated portions of its authority to enact emergency regulations to the Mayor, through its adoption of Section 2-2 of the City Code of Ordinances.
- As written, Section 2-2 of the City Code does not authorize the Mayor to issue by proclamation regulations pursuant to N.C. Gen. Stat. § 166A-19.31(b)(5), which broadly allows municipalities to regulate any activities or conditions the control of which may be reasonably necessary to maintain order and protect lives or property during a state of emergency.
- Given the need to be able to respond quickly to the threats posed by the novel corona virus known as COVID-19, it is desirable to allow the Mayor to issue all regulations needed to address the outbreak via proclamation.

Council Goal(s):

- Well Planned and Livable Community

Committee(s):

- None

Pro(s):

- Will allow the Mayor to regulate by proclamation any activities or conditions the control of which may be reasonably necessary to maintain order and protect lives or property during the state of emergency that has been declared in relation to the spread of COVID-19

Con(s):

- None

Fiscal Impact:

- None

Suggested Motion:

- Motion to adopt an ordinance delegating to the Mayor of the City of Asheville the authority to regulate by proclamation any activities or conditions the control of which may be reasonably necessary to maintain order and protect lives or property during the state of emergency that has been declared in relation to the spread of COVID-19.

Attachment(s):

- Ordinance

ORDINANCE NO. _____

ORDINANCE DELEGATING TO THE MAYOR OF THE CITY OF ASHEVILLE THE AUTHORITY TO REGULATE BY PROCLAMATION ANY ACTIVITIES OR CONDITIONS THE CONTROL OF WHICH MAY BE REASONABLY NECESSARY TO MAINTAIN ORDER AND PROTECT LIVES OR PROPERTY DURING THE STATE OF EMERGENCY THAT HAS BEEN DECLARED IN RELATION TO THE SPREAD OF COVID-19

WHEREAS, N.C. Gen. Stat. § 166A-19.31(b) authorizes municipalities to adopt certain regulations in times of a declared state of emergency; and

WHEREAS, N.C. Gen. Stat. § 166A-19.31(a) allows a municipality to delegate its authority to issue regulations under a state of emergency to the municipality's mayor; and

WHEREAS, the City Council has previously delegated to the Mayor authority to issue by proclamation some, but not all of the types of regulations specified in N.C. Gen. Stat. § 166A-19.31(b); and

WHEREAS, the City Council finds that, given the need to be able to respond quickly to the threats posed by the novel corona virus known as COVID-19, it is desirable to allow the Mayor to issue all regulations needed to address the outbreak via proclamation;

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

1. In addition to those powers previously delegated to the Mayor of the City of Asheville pursuant to Section 2-2 of the City's Code of Ordinances, the Asheville City Council hereby further delegates to the Mayor authority to regulate by proclamation any activities or conditions the control of which may be reasonably necessary to maintain order and protect lives or property during the state of emergency that has been declared in relation to the spread of COVID-19.

2. The City Council further acknowledges that, consistent with Section 10 of the City Charter, the Vice Mayor shall be authorized to exercise the powers delegated under this Ordinance, and under Section 2-2 of the City Code, in the absence of the Mayor.

Read, approved and adopted this 24th day of March, 2020.

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City Clerk Mayor

Approved as to form:

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City Attorney