



Takoma Park City Council Meeting – March 11, 2020 Agenda Item 4

Voting Session

Uncodified Emergency Ordinance Regarding City Manager Authority During Health Emergency

Recommended Council Action

Adopt Ordinance.

Context with Key Issues

Jurisdictions across the world and in the National Capital region are taking steps to prevent the disease caused by the novel coronavirus, Covid-19, from becoming widespread. A review of the actions that may need to be taken in the City of Takoma Park include changes to scheduling of personnel, changes to procedures regarding telework and work assignments, changes regarding employee leave and pay, changes in procedures in serving the public or means of holding public meetings, and other steps that may need to be taken without advance notice in order to protect the public health, safety, or general welfare.

While multiple provisions in the City Charter, City Code, City regulations and collective bargaining agreements support the authority of the City Manager to act in times of emergency, there is a desire to be explicit about the authority the City Manager has and to provide clear information to the City Council and the public about steps that may need to be taken that may supersede a provision of the City Code, regulation or other similar document or established procedure.

To this end, the draft uncodified Ordinance includes the following language: "During the pendency of this uncodified Ordinance, the City Manager shall report to the Mayor and Council in writing every two weeks regarding the actions taken pursuant to this section and what impact those actions have had on City affairs."

The uncodified Ordinance is limited to this Covid-19 emergency and is time limited. It shall expire after ninety days or on the day that the Governor declares the State of Emergency is over, whichever is later. The Council may rescind, modify or extend the uncodified Ordinance by majority vote.

In the future, an amendment to the City Charter and/or City Code should be considered to more clearly address the explicit authority of the City Manager and City Council in times of emergency.

Council Priority

Engaged, Responsive, and Service Oriented Government. This Ordinance is to allow for all appropriate and reasonable measures during a public health emergency to assure the efficient operation of the City's government and to protect the public health, safety, and welfare.

Environmental Impact of Action

Actions may need to be taken that supersede certain environmental procedures or purchasing requirements. At this time, however, no such actions are envisioned to be likely.

Racial Equity Considerations

Actions are to be taken to protect the health and safety of City staff and residents, the majority of whom are people of color.

Approved by: Suzanne R. Ludlow, City Manager

Prepared by: Ellen Arnold-Robbins, Library Director
Posted 2020-02-26

Fiscal Impact of Action

Costs of actions are unknown at this time; there is not an expectancy at this time that there will be a large cost to the City.

Attachments and Links

- Draft Uncodified Ordinance

1 Introduced By: _____
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4 **CITY OF TAKOMA PARK**
5 **MARYLAND**

6
7 **UNCODIFIED EMERGENCY ORDINANCE**
8 **2020-XX**
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10 **An uncodified Ordinance whereby the City of Takoma Park confirms**
11 **the City Manager’s authority to take all appropriate and reasonable**
12 **actions necessary to prevent and/or reduce the impact of the outbreak**
13 **of disease caused by the coronavirus (“Covid-19”) on the efficient**
14 **operation of the City’s government in order to protect the health,**
15 **safety, and welfare of its residents.**
16

17 **WHEREAS,** an outbreak of disease caused by the coronavirus (“Covid-19”) occurred in
18 China in late 2019 and, as of this writing, it has been detected in more than 89
19 countries, including the United States; and
20

21 **WHEREAS,** Covid-19 is a severe respiratory disease, which may result in illness or death;
22 and
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24 **WHEREAS,** the World Health Organization (“WHO”) and the Centers for Disease Control
25 and Prevention (“CDC”) have declared the Covid-19 outbreak a “public health
26 emergency of international concern;” and
27

28 **WHEREAS,** the CDC has issued guidance to all state and local governments, and all citizens,
29 recommending preparedness to prevent community spread and guard against
30 the potential of a Covid-19 pandemic; and
31

32 **WHEREAS,** on March 5, 2020, Governor Larry J. Hogan, Jr., declared a State of Emergency
33 as a result of Covid-19 which he described as a public health catastrophe, a
34 public emergency, and an immediate danger to public safety within the entire
35 State of Maryland; and
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37 **WHEREAS,** as of March 10, 2020, the CDC found that Covid-19 has infected individuals in
38 36 states, including the State of Maryland and the District of Columbia, and
39 resulted in a total of 647 confirmed and presumed positive cases in the United
40 States, 25 of which resulted in death; and
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42 **WHEREAS,** leading public health entities and officials recommend that individuals who fall
43 ill should telecommute or work remotely during the pendency of their recovery;
44 and
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46 **WHEREAS,** the Council finds that the coronavirus (“Covid-19”) outbreak constitutes an
47 emergency; and
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49 **WHEREAS,** the City encourages individuals to observe all necessary health precautions to
50 prevent and or reduce the potential of spreading Covid-19; and
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52 **WHEREAS,** Maryland Code, Local Government Article, Section 5–202, as amended,
53 authorizes the legislative body of each municipal corporation in the State of
54 Maryland to pass ordinances that such legislative body deems necessary to
55 assure the good government of the municipality, to protect and preserve the
56 municipality’s rights, property and privileges, to preserve peace and good order,
57 to secure persons and property from danger and destruction, and to protect the
58 health, comfort, and convenience of the citizens of the municipality; and
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60 **WHEREAS,** Section 701(f) of the City Charter states that the City Manager is required to
61 recommend to the governing body (from time to time) the adoption of such
62 measures as may be deemed necessary or expedient for the health, safety, or
63 welfare of the community or for the improvement of administrative services;
64 and
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66 **WHEREAS,** Section 703 of the City Charter states that in the case of accident, disaster, or
67 other circumstance creating a public emergency, the City Manager may award
68 contracts and make purchases for the purpose of meeting said emergency, but
69 that the City Manager shall file promptly with the Council a certificate showing
70 such emergency and the necessity for such action together with an itemized
71 account of all expenditures; and
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73 **WHEREAS,** Section 2.08.010 of the City Code states that the City Manager shall be
74 responsible for the proper administration of all day-to-day affairs of the City,
75 that the City Manager shall be vested with the powers and authority necessary
76 to perform such duties except where they may be inconsistent with other
77 provisions of the City Charter or City Code, and that the City Manager shall
78 perform such other duties as the Council may lawfully require; and
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80 **WHEREAS,** Section 2.12.100 of the City Code also provides the City Manager with
81 emergency regulatory authority in circumstances where immediate action is
82 required to protect the public health, safety, or general welfare; and
83

84 **WHEREAS,** Section 309(e) of the City Charter permits the Council to suspend the provision
85 prohibiting the passing of an ordinance at the meeting at which it is introduced
86 upon a finding that an emergency exists.
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88 **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF**
89 **TAKOMA PARK, MARYLAND, THAT** the Mayor and Council hereby confirm the City
90 Manager’s authority to act in response to the emergency created by the coronavirus (“Covid-19”)
91 outbreak and enact this uncodified emergency Ordinance as follows:

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Section 1. Upon the enactment of this uncodified ordinance by the Council, the City Manager shall take all appropriate and reasonable measures to assure the efficient operation of the City’s government and to protect the public health, safety, and welfare.

Section 2. The actions taken by the City Manager pursuant to this uncodified Ordinance shall be rationally related to the impact of the public health emergency created by the coronavirus on the City’s affairs and any such actions shall be taken within the authority of the City as a municipal corporation in the State of Maryland.

Section 3. In the event a conflict arises between this uncodified Ordinance and any existing City Code provision, City Regulation, City Policy, City Labor Contract, or City Personnel Manual, the City Manager shall attempt to give effect to both provisions, but in the event that is not possible, this uncodified Ordinance shall control.

Section 4. During the pendency of this uncodified Ordinance, the City Manager shall report to the Mayor and Council in writing every two weeks regarding the actions taken pursuant to this section and what impact those actions have had on City affairs.

Section 5. This uncodified Ordinance shall terminate on the ninetieth (90th) day from the date of its enactment or on the day that the Governor of the State of Maryland declares that the State of Emergency in Maryland has ended, whichever is later.

Section 6. A two-week transition period shall follow the termination of this uncodified Ordinance during which time the City Manager shall retain decision-making authority on matters related to the emergency in order to oversee the City’s transition to normal operations.

Section 7. If, for whatever reason, the City Manager shall become incapacitated or otherwise unable to perform these responsibilities, they shall be assumed by the City Manager’s designee.

Section 8. The Mayor and Council may rescind, modify, or extend this uncodified Ordinance by a majority vote of those present.

THIS ORDINANCE IS ADOPTED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND, THIS ____ DAY OF MARCH, 2020, BY ROLL-CALL VOTE AS FOLLOWS:

AYE:
NAY:
ABSTAIN: