

ANCHORAGE, ALASKA
AR No. 2020-296, As Amended

1 **A RESOLUTION OF THE ANCHORAGE ASSEMBLY REQUIRING THE ASSEMBLY**
2 **CHAMBERS TO ACCOMMODATE INDIVIDUALS WISHING TO TESTIFY ON**
3 **PUBLIC HEARING ITEMS OR IN AUDIENCE PARTICIPATION AT ASSEMBLY**
4 **MEETINGS.**
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6
7 **WHEREAS**, the Mayor issued a Proclamation of Emergency (COVID-19) on March 12,
8 2020 and since then has issued emergency orders and regulations to address it; and
9

10 **WHEREAS**, available models show that the spread of the novel coronavirus and death
11 toll of this virus would be much higher without social distancing, limiting physical
12 contact with others outside their household, [AND] avoiding large gatherings, and
13 wearing masks; and
14

15 **WHEREAS**, to protect the public health and safety, the Mayor has issued emergency
16 orders that prohibit indoor events or gatherings with specified numbers of persons
17 present, including by Emergency Order (EO) 14 on July 22 prohibiting more than 25
18 persons, and by EO-15 on July 31 prohibiting more than 15 persons; and
19

20 **WHEREAS**, the Assembly Chambers were closed to entry by the public by decision of
21 the Chair of the Assembly in order to comply with gathering limitations of the EO-15,
22 which has the force of law, and prevent possible spread of the coronavirus to people
23 in attendance, including Municipal staff, security, and Assembly Members present for
24 each Assembly meeting[;] that could result in broad community spread to vulnerable
25 people; and
26

27 **WHEREAS**, accommodations were made to allow members of the public to provide
28 testimony on public hearing items or in audience participation by telephone or
29 submitting written testimony at each Assembly Meeting; and
30

31 **WHEREAS**, the Open Meetings Act requires that all Assembly meetings are “open to
32 the public” and actions “be taken openly and that their deliberations be conducted
33 openly,” and allows for participation at meetings by members of the public or by
34 members of a governmental body by teleconferencing (AS 44.62.310(a) and AS
35 44.62.312); and
36

37 **WHEREAS**, the Anchorage Municipal Charter section 17.05 requires that all meetings
38 be public and “At each such meeting the public shall have reasonable opportunity to
39 be heard”; and
40

41 **WHEREAS**, in response to questions from many city councils and borough assemblies
42 about conducting meetings during the COVID-19 pandemic, the State of Alaska,
43 Department of Commerce, Community, and Economic Development issued a
44 memorandum on March 18, 2020 advising that the Open Meetings Act does not

1 prohibit teleconference meetings, nor require council/assembly members to be
2 present, and that both council/assembly members and the public may participate from
3 remote locations[BUT THE PUBLIC MUST BE ALLOWED TO ATTEND ANY VENUE
4 IN WHICH THE COUNCIL/ASSEMBLY IS MAKING DECISIONS AND ACTIONS]; and
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6 [WHEREAS, TO MANY PEOPLE, THE EXPERIENCE OF IN-PERSON TESTIMONY-
7 ADDRESSING THEIR ELECTED OFFICIALS FACE TO FACE AT THEIR MEETING
8 LOCATION ON ITEMS OF PUBLIC CONCERN-IS IMPORTANT TO THE PROCESS
9 AND TO CONVEY THEIR MESSAGE, AND IS NOT EFFECTIVE OR HEEDED WHEN
10 PROVIDED BY TELEPHONE OR IN WRITING; AND]
11

12 **WHEREAS**, at each Assembly meeting closed to the public to date, while telephonic
13 testimony has been challenging, the public has still had reasonable opportunity to
14 participate [FRAUGHT WITH TECHNICAL ISSUES, MISSED CALLS, AND
15 MARGINALLY EFFECTIVE]; and
16

17 **WHEREAS**, nothing in the Home Rule Municipal Charter, Anchorage Municipal Code,
18 or state law expressly forbids [ALLOWS] the government body from opening a [TO
19 CLOSE AN OPEN] meeting to telephonic [PHYSICAL IN PERSON] access due to a
20 global health pandemic characterized by highly contagious airborne transmission; and
21

22 **WHEREAS**, a guidance document written by Gordon Tans, "Alaska's Open Meetings
23 Law," (3rd Ed. 2002) suggests that there is an implied reasonable opportunity to attend
24 open meetings [IN PERSON]; and
25

26 **WHEREAS**, it is unreasonable to expose municipal staff, elected officials, and the
27 public to a highly contagious virus that may cause death; and
28

29 **WHEREAS**, EO-15 recognizes the risk posed even by outdoor gatherings and opening
30 Chambers for in-person testimony invites the public to gather outside Chambers while
31 waiting their turn to provide testimony; and
32

33 **WHEREAS**, to further protect the public health and safety, the Mayor issued EO-13 on
34 June 26 mandating that individuals wear masks or cloth face coverings "over their
35 noses and mouths when indoors in public settings or communal spaces outside the
36 home," which was followed by an updated version on July 31 also requiring individuals
37 to wear a mask or cloth face covering "outdoors when at a gathering or when six feet
38 of physical distancing from non-household members cannot be maintained"; and
39

40 **WHEREAS**, it is possible to balance protecting public health and safety from COVID-
41 19 spread by [AND] providing for telephonic or emailed [IN PERSON] public testimony
42 in the spirit of Open Meetings Act and Charter section 17.05 [COMPLIANCE BY
43 ALLOWING INDIVIDUALS INTO ASSEMBLY CHAMBERS AT LEAST ONE AT A
44 TIME TO PROVIDE PUBLIC TESTIMONY]; now, therefore,
45

46 **THE ANCHORAGE ASSEMBLY RESOLVES:** 47

48 **Section 1.** At each Assembly meeting held in the Assembly Chambers while EO-15
49 is in effect, individuals wishing to [APPEAR IN PERSON TO] provide testimony on
50 public hearing items, during audience participation, or by appearance request, shall be

1 accommodated via telephonic participation or email communication as a reasonable
2 accommodation during an international public health emergency [AND ALLOWED IN
3 CHAMBERS. THIS MAY BE ACCOMPLISHED BY ALLOWING AT LEAST ONE
4 MEMBER OF THE PUBLIC ENTER THE CHAMBERS AT A TIME FOR THIS
5 PURPOSE, BUT MORE MAY BE PERMITTED TO ENTER IF CAPACITY
6 LIMITATIONS WILL NOT BE EXCEEDED].

7
8 **Section 2.** Any individual who queues or gathers outside of the Loussac Library and
9 while on Municipal property, but with less than six feet of physical distance from non-
10 household members, or enters the Loussac Library, shall wear a proper mask or cloth
11 face covering that covers the nose and mouth and does not contain an exhalation
12 valve, vent, or any visible gaps or holes that unreasonably reduces the effectiveness
13 of said mask or covering.

14
15 **Section 3.** To protect the health and safety of everyone, during an Assembly meeting
16 held in the Assembly Chambers, if a member of the Assembly, Administration, or
17 Clerk’s Office refrains from wearing a proper mask or cloth face covering during the
18 meeting, then the Chair shall call for compliance. If compliance is not achieved, then
19 the Chair shall not allow public testimony in person and shall instead conduct public
20 testimony by telephone conference, unless the member agrees to wear a proper mask
21 or appropriate cloth face covering, or leaves the Chambers.

22 A. During a continuing violation of this section, the Municipal Clerk shall provide a
23 telephone or other device to the public to be used outside of the Assembly
24 Chambers for the purpose of providing public testimony, for those members of
25 the public who may arrive at Chambers without one of their own.

26
27 **Section 4.** Masks may not be removed during the meeting except for brief removal
28 while speaking, drinking, or eating, or pursuant to an applicable exemption under law,
29 the Mayor’s Executive Orders, or Rules of the Assembly.

30
31 **Section 5.** A proper mask is one that covers the nose and mouth, does not contain an
32 exhalation valve, vent, or any visible gaps or holes that unreasonably reduces the
33 effectiveness of said mask or covering, is made of at least two layers of tightly woven
34 material such as common cloth used in bed sheets or the equivalent, and has a snug
35 fit.

36
37 **Section 6[2].** This resolution shall be effective for the next Assembly meeting in the
38 Assembly Chambers following passage and approval.

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40 PASSED AND APPROVED by the Anchorage Assembly this 11th day of August, 2020.

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45 ATTEST:

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49 _____
50 Chair

48 
49 _____
50 Municipal Clerk