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

A RESOLUTION OF THE ANCHORAGE ASSEMBLY REQUIRING THE ASSEMBLY CHAMBERS TO ACCOMMODATE INDIVIDUALS WISHING TO TESTIFY ON PUBLIC HEARING ITEMS OR IN AUDIENCE PARTICIPATION AT ASSEMBLY MEETINGS.

WHEREAS, the Mayor issued a Proclamation of Emergency (COVID-19) on March 12, 2020 and since then has issued emergency orders and regulations to address it; and

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

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

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

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

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

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

WHEREAS, in response to questions from many city councils and borough assemblies about conducting meetings during the COVID-19 pandemic, the State of Alaska, Department of Commerce, Community, and Economic Development issued a memorandum on March 18, 2020 advising that the Open Meetings Act does not
prohibit teleconference meetings, nor require council/assembly members to be present, and that both council/assembly members and the public may participate from remote locations [BUT THE PUBLIC MUST BE ALLOWED TO ATTEND ANY VENUE IN WHICH THE COUNCIL/ASSEMBLY IS MAKING DECISIONS AND ACTIONS]; and

[WHEREAS, TO MANY PEOPLE, THE EXPERIENCE OF IN-PERSON TESTIMONY- ADDRESSING THEIR ELECTED OFFICIALS FACE TO FACE AT THEIR MEETING LOCATION ON ITEMS OF PUBLIC CONCERN-IS IMPORTANT TO THE PROCESS AND TO CONVEY THEIR MESSAGE, AND IS NOT EFFECTIVE OR HEEDED WHEN PROVIDED BY TELEPHONE OR IN WRITING; AND]

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

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

WHEREAS, a guidance document written by Gordon Tans, “Alaska’s Open Meetings Law,” (3rd Ed. 2002) suggests that there is an implied reasonable opportunity to attend open meetings [IN PERSON]; and

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

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

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

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

THE ANCHORAGE ASSEMBLY RESOLVES:

Section 1. At each Assembly meeting held in the Assembly Chambers while EO-15 is in effect, individuals wishing to [APPEAR IN PERSON TO] provide testimony on public hearing items, during audience participation, or by appearance request, shall be
accommodated via telephonic participation or email communication as a reasonable accommodation during an international public health emergency [AND ALLOWED IN CHAMBERS. THIS MAY BE ACCOMPLISHED BY ALLOWING AT LEAST ONE MEMBER OF THE PUBLIC ENTER THE CHAMBERS AT A TIME FOR THIS PURPOSE, BUT MORE MAY BE PERMITTED TO ENTER IF CAPACITY LIMITATIONS WILL NOT BE EXCEEDED].

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

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

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

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

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

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

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

ATTEST:  

Chair

Municipal Clerk