

Proposed Amendment #1 to AO 2020-21

AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 3.80, CIVIL EMERGENCY, TO ENSURE THAT EMERGENCY POWERS CAN BE EXERCISED IN THE TEMPORARY ABSENCE OR INCAPACITY OF THE MAYOR OR OTHER DELEGATED AUTHORITY,

....

Submitted by: Assembly Members Constant and Weddleton

PROPOSED AMENDMENT

Purpose/Summary of amendments: This amendment changes the time an emergency proclamation is effective unless extended by the Assembly to 72 hours as a compromise between the current Code (48 hours) and the proposed increase to 7 days (168 hours).

While it is understandable the Administration wants more time to operate under the Mayor's emergency declaration and 7 days is standard for the duration of a mayor's proclamation of disaster per AS 26.23.140, it is essential that the Administration closely collaborates with the Assembly during a declared emergency. Therefore the 72-hour compromise expands the time allowed but not so far off into the future that the Assembly is left out of the loop.

TEXT OF AMENDMENT

(adding new language, [DELETING CURRENT CODE LANGUAGE] and [Deleting words proposed by the unamended AO that are not in current code])

AO Section 1, Page 5, beginning at line 29, amending as follows:

3.80.080 Termination of emergency proclamation.

The emergency proclaimed in accordance with the provisions of sections 3.80.030 through 3.80.090 shall terminate after 72 [168][48] hours from the issuance of a proclamation, or upon the issuance of a proclamation or resolution of the assembly declaring that an emergency no longer exists, whichever occurs first, except that such emergency may be extended for such additional periods of time as determined necessary by resolution of the assembly.

Will there be any public or private economic effect to the proposed amendment?
[] YES [X] NO (check one) If yes, please detail below.

Proposed Amendment #2 to AO 2020-21

AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 3.80, CIVIL EMERGENCY, TO ENSURE THAT EMERGENCY POWERS CAN BE EXERCISED IN THE TEMPORARY ABSENCE OR INCAPACITY OF THE MAYOR OR OTHER DELEGATED AUTHORITY,

....

Submitted by: Assembly Members Weddleton, Rivera, and Kennedy

PROPOSED AMENDMENT

Purpose/Summary of amendments: This amendment updates the section on dissemination and posting of an emergency proclamation so it includes those proclamations that continue or terminate a state of emergency, and updates archaic language referring to newspapers and radio to be consistent with state statute language on dissemination of emergency proclamations, AS 26.23.020 and 26.23.140. Both statutes are noted state law references at the bottom of the section.

TEXT OF AMENDMENT

(adding new language, [DELETING CURRENT CODE LANGUAGE] and [Deleting words proposed by the unamended AO that are not in current code])

AO Section 1, Page 5, at lines 8 to 16, amending as follows:

3.80.050 Dissemination and posting of emergency proclamation.

A [THE] proclamation of an emergency, or continuing or terminating the state of emergency, as provided in sections 3.80.030 through 3.80.090 shall become effective upon its issuance to the assembly. [NEWSPAPERS OF GENERAL CIRCULATION PUBLISHED IN THE MUNICIPALITY, AND] [THE] [RADIO AND TELEVISION STATIONS LOCATED IN THE METROPOLITAN AREA OF THE MUNICIPALITY.] A copy of a [THE] proclamation declaring, continuing, or terminating a state of emergency shall be disseminated promptly by means calculated to bring its contents to the attention of the general public, filed promptly with the Alaska division of homeland security and emergency management, and posted [ON THE BULLETIN BOARD AND] at such other places in the municipality as may be directed in the proclamation. The certificate of the mayor that the proclamation was duly declared, issued, disseminated and posted shall be prima facie evidence that all required actions have been fully performed.

Will there be any public or private economic effect to the proposed amendment?
[] YES [X] NO (check one) If yes, please detail below.

Proposed Amendment #3 to AO 2020-21

AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 3.80, CIVIL EMERGENCY, TO ENSURE THAT EMERGENCY POWERS CAN BE EXERCISED IN THE TEMPORARY ABSENCE OR INCAPACITY OF THE MAYOR OR OTHER DELEGATED AUTHORITY,

Submitted by: Assembly Members Weddleton, Rivera, and Kennedy

PROPOSED AMENDMENT

Purpose/Summary of amendments: This amendment adds “public health emergency,” a defined term recently added by adoption of AO 2020-34(S), As Amended, to the definition of “civil emergency.” That is clearly an umbrella term and should include a public health emergency.

TEXT OF AMENDMENT

(adding new language, [DELETING CURRENT CODE LANGUAGE] and [~~Deleting words proposed by the unamended AO that are not in current code~~])

AO Section 1, Page 4, beginning at line 38, including the current Code definition of “civil emergency” in this AO and amending it as follows:

3.80.030 Definitions.

...
Civil emergency means:

- 1. A civil disorder.
2. Any natural disaster or manmade calamity, including flood, conflagration, cyclone, tornado, earthquake or explosion, within the municipality or immediately threatening the municipality, resulting in the death or injury of persons or the destruction of property to such an extent that extraordinary measures must be taken to protect the public order, safety and welfare.
3. A public health emergency.

Will there be any public or private economic effect to the proposed amendment?
[] YES [X] NO (check one) If yes, please detail below.

Proposed Amendment #4 to AO 2020-21

AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 3.80, CIVIL EMERGENCY, TO ENSURE THAT EMERGENCY POWERS CAN BE EXERCISED IN THE TEMPORARY ABSENCE OR INCAPACITY OF THE MAYOR OR OTHER DELEGATED AUTHORITY,

....

Submitted by: Assembly Members Kennedy, Weddleton, and Rivera

PROPOSED AMENDMENT

Purpose/Summary of amendments: This amendment takes a different approach to the assumption of the mayor's emergency powers and the succession to the office of acting mayor than what is proposed in the original ordinance.

There is a difference between a mayor or acting mayor being temporarily unavailable or absent, such as when traveling, and a mayor being incapacitated or unavailable for a longer period of time. I've selected 14 days of continuous unavailability or incapacity to delineate the difference, as a convenient time period that is typically the length of time between successive Assembly meetings. If the absence of the mayor or acting mayor is less than 14 days, the Assembly Member in the line of succession only assumes mayor's emergency powers, and the non-emergency powers are assumed by the Municipal Manager pursuant to Charter 5.03(c) or another executive pursuant to subsection B. which is the line of succession the original ordinance proposed. If the absence is 14 days or more, indicating a more serious incapacity than temporary travel or short-term illness, the Assembly Member assumes all the mayor's powers and duties.

In addition, the structure of Chapter 3.80, construed in light of relevant Charter sections on the mayor's absence or vacating the position, indicates the emergency powers were not meant to be exercised by non-elected officials such as the municipal manager, but in emergency situations someone needs to be able to exercise those emergency powers to address immediate circumstances threatening the public health, safety, and welfare. The current section 3.80.020 sets forth that line of succession. The proposed ordinance had a good idea to establish a line of succession for when the municipal manager is unavailable to assume the mayor's powers, and that is incorporated in this amendment for non-emergency powers.

TEXT OF AMENDMENT

(adding new language, [DELETING CURRENT CODE LANGUAGE] and [~~Deleting words proposed by the unamended AO that are not in current code~~])

AO Section 1, Page 3, beginning at line 27, amend to delete all of new section 3.80.015 from this ordinance.

AND AO Section 1, Page 4, beginning at line 10, amending as follows:

3.80.020 Succession to office of mayor or [MAYOR AND] acting mayor, and municipal manager.

A. If the mayor or acting mayor is temporarily absent or incapacitated for less than 14 days, the mayor's emergency powers shall be assumed in accordance with the line of succession in this subsection, and non-emergency powers assumed by executives pursuant to subsection B. If the mayor or acting mayor is absent, unavailable, incapacitated or otherwise unable to perform the duties of the office for 14 or more days consecutively, then all the mayor's powers and duties shall be assumed in accordance with the line of succession in this subsection. The order of interim succession for assembly members to assume the powers and duties of the mayor including emergency and veto powers, shall be determined as follows and in the following order:

- 1. chair of the assembly.**
- 2. vice chair of the assembly**
- 3. chair or co-chair of the assembly budget and finance committee. In the case of co-chairs, the one with longer duration experience as committee chair is first in succession to the other co-chair. If the duration of experience is equal, the one with longest time of service on the assembly is first. If still equal, one may defer or the first in succession may be determined by lot.**

[IF THE OFFICE OF ACTING MAYOR BECOMES VACANT, OR IF THE [MAYOR AND] ACTING MAYOR ~~is~~[ARE] ABSENT OR UNABLE TO PERFORM THE DUTIES OF THE OFFICE OF acting MAYOR, THE ORDER OF INTERIM SUCCESSION SHALL BE DETERMINED AS FOLLOWS:

- A. THE ASSEMBLY MEMBER WITH THE LONGEST TOTAL PERIOD OF TENURE IN OFFICE SHALL ASSUME THE OFFICE OF ACTING MAYOR.**

B. IF MORE THAN ONE ASSEMBLY MEMBER SHALL HAVE THE SAME TOTAL PERIOD OF TENURE IN OFFICE, THAT ASSEMBLY MEMBER WHO RECEIVED THE LARGEST NUMBER OF VOTES AT THE LAST ELECTION AT WHICH SUCH ASSEMBLY MEMBERS WERE ELECTED SHALL ASSUME THE OFFICE OF ACTING MAYOR.]

B. If the mayor or acting mayor is temporarily absent for less than 14 days the municipal manager shall assume the non-emergency powers and duties of the mayor pursuant to Charter 5.03. If the municipal manager is unavailable, the mayor's non-emergency powers and duties shall be assumed and exercised by the first person available in the list of succession below:

- 1. a subordinate designated by the mayor.**
- 2. director of the office of management and budget.**
- 3. chief of the Anchorage fire department.**
- 4. director of the Anchorage health department.**
- 5. director of the department of maintenance and operations.**
- 6. director of the department of project management & engineering.**
- 7. chief fiscal officer.**
- 8. The assembly-confirmed head of a general-government municipal department with the longest total period of continuous service as department head, excluding the chief of the police department and the municipal attorney. If more than one assembly-confirmed head of a general-government municipal department shall have the same total period of continuous service as department head, emergency powers shall be assumed by the head of the department with the greater number of employees.**

- C.** **Any person authorized to assume the mayor's powers and duties in subsection A. or B. shall relinquish that authority immediately upon the availability or return of the mayor or another person higher in succession, or when otherwise required by this section.**
- D.** **If an assembly member assumes and exercises only the mayor's emergency powers pursuant to subsection A., that member may not vote in assembly action on the matter, but may participate in all other assembly action, if not precluded by other law. If an assembly member assumes all powers and duties of the office of mayor, the member has the veto power, but may not vote on assembly action, and the assembly shall reorganize pursuant to section 2.30.010 at its next regular or special meeting.**
- E.** **If the office of mayor becomes vacant, the chair of the assembly shall serve as the acting mayor in accordance with Charter 7.02. The assembly shall reorganize pursuant to section 2.30.010 at its next regular or special meeting.**
- F.** **If the assembly reorganizes under this section, the chair who first ascended to serve as acting mayor shall return to status as chair of the assembly when the mayor returns, or when the office of mayor is filled by election.**

AND AO Section 1, Page 5, beginning at line 4, inserting Code section 3.80.040 which was omitted from the AO and amending it as follows:

3.80.040 - Authority to issue emergency proclamation.

Whenever the mayor **or acting mayor** determines that an emergency as defined in section 3.80.030 exists, he **or she** may declare by proclamation the existence of the emergency and shall have the power to impose by proclamation any or all of the regulations necessary to prevent disorder and to preserve the public health of the municipality as set forth in sections 3.80.040 through 3.80.090. Pursuant to Charter section 5.02(d), the assembly by resolution may declare that the emergency no longer exists. Any proclamation issued pursuant to this chapter shall have the force of law and shall supersede any conflicting provision of law during an emergency declared pursuant to this chapter.

Will there be any public or private economic effect to the proposed amendment?

YES NO (check one) **If yes, please detail below.**