

L Aid-On-The-Table

Submitted by: Assembly Chair LaFrance, Vice
Chair Constant and Assembly Member Zaletel
Prepared by: Assembly Counsel's Office
For reading: January 19, 2023

**ANCHORAGE, ALASKA
EO No. 2023-_____**

1 **AN EMERGENCY ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY**
2 **EXTENDING FOR AN ADDITIONAL 60 DAYS THE TERMS OF MUNICIPAL**
3 **BOARD AND COMMISSION MEMBERS WHOSE TERMS EXPIRED OCTOBER**
4 **14, 2022, AND ARE IN AN AUTOMATIC 120-DAY EXTENSION PERIOD OR**
5 **UNTIL A NEW APPOINTMENT IS CONFIRMED, BY AMENDING CERTAIN**
6 **SECTIONS OF ANCHORAGE MUNICIPAL CODE CHAPTER 4.05.**
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9 **WHEREAS**, the Anchorage Home Rule Charter, Article X, Section 10.03, provides
10 that, in case of an emergency as defined in Charter § 17.13(c), "an ordinance may
11 be introduced and adopted at the same meeting," provided the Assembly makes a
12 finding in the emergency ordinance that an emergency exists and provides a
13 statement of the facts constituting the emergency; and

14
15 **WHEREAS**, Charter § 17.13(c) states that "*Emergency*" means an unforeseen
16 occurrence or condition which results or apparently will result in an insufficiency of
17 services or facilities substantial enough to endanger the public health, safety or
18 welfare"; and

19
20 **WHEREAS**, the Anchorage Municipal Code section 4.05.040, regarding terms for
21 Municipal boards and commissions, states in pertinent part: "Except as otherwise
22 specified in this Code, the regular term of each member of a board or commission
23 is three years commencing on October 15 of the year in which appointed and ending
24 three years thereafter on October 14, ***provided however, to avoid a vacancy until***
25 ***new appointments can be made and confirmed, an appointed member's term***
26 ***is extended until a new appointment is confirmed or a maximum of 120 days***
27 ***which ever occurs first.***" (emphasis added); and

28
29 **WHEREAS**, several boards and commissions crucial to Municipal operations and
30 governance, or with regulatory and adjudicatory powers, have seats that are vacant
31 and/or members with recently expired terms as of October 14, 2022; and

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33 **WHEREAS**, for board and commission members with terms expired October 14,
34 2022 the automatic 120-day extension provided by AMC section 4.05.040 ends on
35 February 11, 2023; and

36
37 **WHEREAS**, in recent years, several board and commission members have reported
38 they are unable to meet due to difficulties establishing a quorum of members for a
39 meeting; and

40
41 **WHEREAS**, vacant seats on a board or commission are a main contributing factor
42 to the difficulty of meeting quorum, which is defined in Anchorage Municipal Code

1 section 4.05.080 as “a majority of the authorized members of a board or
2 commission”; and
3

4 **WHEREAS**, by way of examples, if expired terms are not extended beyond
5 February 11, 2023, the following boards and commissions will not be able to have
6 a quorum due to vacancies or if a single seated member is absent:

- 7 • Board of Ethics (5 seats): 1 vacant, 2 expiring February 11.
- 8 • Employee Relations Board (3 seats): 1 vacant, 1 expiring February 11.
- 9 • Anchorage Equal Rights Commission (9 seats): 2 vacant, 3 expiring
10 February 11.
- 11 • Zoning Board of Examiners and Appeals (9 seats): 1 vacant, 3 expiring
12 February 11.
- 13

14 **WHEREAS**, historically, recruitment efforts indicate it is a challenge to fill vacancies
15 on boards and commissions; and
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17 **WHEREAS**, over the past year several of the appointments submitted by the mayor
18 for confirmation were vetted by the Assembly and found unqualified for the position
19 or unexperienced in the subject area and as a result not confirmed by a vote; and
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21 **WHEREAS**, in a January 11 letter from Cashion Gilmore & Lindemuth, the law firm
22 representing former Municipal Manager Amy Demboski in her wrongful termination
23 claim against Mayor Bronson, several allegations of legal and ethical lapses in the
24 mayor’s actions or endorsement of actions by subordinates are detailed and these
25 call into question the mayor’s ability to lawfully and ethically execute the duties of
26 the office including timely selecting qualified persons for appointment to boards and
27 commissions and submitting them for confirmation by the Assembly before
28 vacancies due to expired terms prevent any action for lack of quorum; and
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30 **WHEREAS**, many boards and commissions fulfill an important regulatory and
31 adjudicatory role, or as a panel of subject matter experts advising the Assembly and
32 Mayor, recommending actions, policy or code changes, some of which Municipal
33 Code requires their review prior to Assembly action; and
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35 **WHEREAS**, most board and commission members know about the extension of
36 their terms for 120 days until February 11, but many of those board and commission
37 members may be making other plans for the time after their extended terms end
38 and may not be planning to attend meetings as early as February 12; so it is
39 imperative to make this emergency code change to ensure that these members
40 know as soon as possible about the extension so are able to make plans for the
41 next 60 days to confirm that there is a quorum on these boards and commissions;
42 and
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44 **WHEREAS**, due to repeated mistakes and alleged code violations related to
45 contracts, and a pattern of errors with the Administration’s appointment documents,
46 more oversight and controls are needed. The legislative branch does not have the
47 immediate capacity to provide the level of the oversight needed to ensure that
48 qualified people are properly appointed, and slowing down the appointment
49 process, while preserving the ability of boards and commissions to meet and advise,
50 will also enable the Administration to focus on procedures and contracting code to
51 reverse the costly pattern of purchasing and contracting error; and

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2 **WHEREAS**, this emergency ordinance will immediately prevent crippling the ability
3 of several boards and commissions to meet quorum and fulfill their duties for an
4 additional sixty days providing time for confirming appointments or taking other
5 legislative action to address the circumstances described herein; now, therefore,
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7 **THE ANCHORAGE ASSEMBLY ORDAINS:**
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9 **Section 1.** Pursuant to Anchorage Municipal Charter Section 10.03, the
10 Assembly hereby specifically finds that the inability of many municipal boards and
11 commissions to meet for lack of a quorum due to existing vacancies or to those
12 created by expiration of extended terms on February 11, 2023 has the potential to
13 significantly delay decisions on individual rights, property rights, ethics questions
14 from public officials, processing legislation in accordance with Code, and
15 substantially and significantly disrupt Municipal governance and operations to the
16 extent it is an emergency and now requires immediate action. Failure to
17 immediately address these issues will likely result in an insufficiency of services
18 substantial enough to endanger the public health, safety, or welfare.
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20 **Section 2.** Anchorage Municipal Code chapter 4.05 is hereby amended to read
21 as follows (*the remainder of the chapter is not affected and therefore not set out*):
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23 **Chapter 4.05 - APPOINTMENTS, MEETINGS AND PROCEDURES**
24

25 *** **

26 **4.05.040 - Terms.**
27

28 Except as otherwise specified in this Code, the regular term of each member
29 of a board or commission is three years commencing on October 15 of the
30 year in which appointed and ending three years thereafter on October 14,
31 provided however, to avoid a vacancy until new appointments can be made
32 and confirmed, an appointed member's term is extended until a new
33 appointment is confirmed or a maximum of 120 days which ever occurs first.
34 In addition to the foregoing automatic extension, all board and commission
35 members whose term expired October 14, 2022 and not yet replaced are
36 extended an additional 60 days to April 12, 2023 or until a new appointment
37 is confirmed to a member's designated seat, which ever occurs first. The
38 terms of initial or subsequent appointments to a board or commission shall
39 be staggered so that, as nearly as possible, a pro rata number of its members
40 shall be appointed each year of the established regular term of office.
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42 (CAC 2.64.040—2.64.050; AO No. 95-113, § 1, 5-2-95; AO No. 2001-105, §
43 1, 6-19-01; AO No. 2004-84, § 1, 5-18-04)
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45 *** **

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47 **Section 3.** Upon the affirmative vote of all Assembly Members present or of three-
48 fourths of the total membership, whichever is less, this Emergency Ordinance shall
49 be effective at 12:01 a.m. on February 11, 2023, and remain in effect for sixty (60)
50 days pursuant to Charter § 10.03, unless sooner repealed by the Assembly.
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PASSED AND APPROVED by the Anchorage Assembly this _____ day
of _____, 2023.

Chair

ATTEST:

Municipal Clerk