

1 Approved: (date)

Submitted by:

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3 Reading for:

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6 **ANCHORAGE YOUTH ADVISORY COMISSION**
7 **YAC-R No. 2021-1**
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9 **A RESOLUTION OF THE ANCHORAGE MUNICIPAL YOUTH ADVISORY**
10 **COMMISSION TO AMEND OR REPEAL ANCHORAGE MUNICIPAL ASSEMBLY**
11 **ORDINANCE 2021-117 IN ORDER TO PROTECT THE RIGHTS OF THE CITIZENS**
12 **OF ANCHORAGE, YOUNG AND OLD, AND UPHOLD THE UNITED STATE**
13 **CONSTITUTION AND THE PRINCIPLES ESTABLISHED IN THE ANCHORAGE**
14 **CHARTER.**
15

16 **WHEREAS**, the United States Constitution 1st Amendment states “Congress shall make
17 no law [...] abridging the freedom of speech, [...] or the right of the people peaceably to
18 assemble, and to petition the Government for a redress of grievances.”

19 **WHEREAS**, the Constitution of the State of Alaska Article I Section 5 states “Every
20 person may freely speak, write, and publish on all subjects, being responsible for the
21 abuse of that right.”

22 **WHEREAS**, the Supreme Court of the United States has established the following
23 precedents regarding the 1st Amendment. *R. A.V. v. St. Paul (1992)*: the first
24 amendment prevents government from punishing speech and expressive conduct
25 because it disapproves of the ideas expressed. *Cohen v. California (1971)*: the emotive
26 and cognitive elements of freedom of speech are protected if not directed toward
27 anyone, even if provocative. *United States v. O'Brian (1968)*: a governmental regulation
28 is sufficiently justified only (1) if it is within the constitutional powers of the government;
29 (2) if it furthers governmental interest, which is (3) unrelated to the suppression of free
30 expression and (4) if the government’s interest outweighs the suppression of speech.

31 **WHEREAS**, the Ninth Circuit has established the following precedent regarding
32 freedom of expression withing local governmental meetings. *White v. City of Norwalk*
33 *(1990)*: city councils can regulate the time, place, and manner of speech as well as the
34 speech’s content in a limited public forum, so long as the restrictions are reasonable
35 and viewpoint neutral. As the removal of individuals from a meeting is exercising
36 executive power rather than legislative power, council members are not granted legal
37 imunity.

1 **WHEREAS**, the Constitution of the State of Alaska Article X Section 9 states “All
2 charters, or parts or amendments of charters, shall be submitted to the qualified votes of
3 the borough or city, and shall become effective if approved by the majority of those who
4 vote of the specific question.” Additionally, Article X Section 11 states “A home rule
5 borough or city may exercise all legislative powers not prohibited by law or by charter.”

6 **WHEREAS**, by the Constitution of the State of Alaska Article XII Section 5 as well as
7 Anchorage Municipal Code Chapter 1.35.010(A)(B) states that Anchorage Assembly
8 members have taken and subscribed to the following oath of office: "I solemnly swear
9 (or affirm) that I will support and defend the Constitution of the United States, the
10 Constitution of the State of Alaska and the Charter of Anchorage, and that I will
11 faithfully perform the duties of _____ to the best of my ability."

12 **WHEREAS**, AO 2021-117 causes AMC 2.30.020(3)(4) and AMC 2.30.055(B) to be in
13 violation of Supreme Court and Federal Court precedents on the freedom of expression
14 as well as the freedom of symbolic speech.

15 **WHEREAS**, the Anchorage Charter Preamble states “We, the people of Anchorage, in
16 order to eliminate waste and duplication in government, to achieve common goals, to
17 support individual rights, to form a more responsive government, and to secure
18 maximum local control of local affairs, hereby establish this Charter.”

19 **WHEREAS**, any infringement of Anchorage’s founding principles within Anchorage
20 Municipal Code is a violation of the Constitution of the State of Alaska Article X Sec. 9.

21 **WHEREAS**, AO 2021-117 causes AMC 2.30.065 (5) contradicts the vital democratic
22 principle of preserving minority opinions, outline in Federalist 51, through preventing
23 public hearings to be reopen without a majority vote.

24 **WHEREAS**, AO 2021-117 specifically deviates AMC2.30.020(8)(9) and
25 AMC2.30.055(H) to contradict longstanding procedures within Robert’s Rules of Order
26 to authorize executive power for the chair of a legislative body.

27 **WHEREAS**, the Youth Advisory Commission takes great concern in the suppression of
28 public testimony and symbolic expression within the Anchorage Assembly chambers as
29 this new policy will likely differ youth from attending and having their opinions heard
30 verbally and/or nonverbally.

31 **WHEREAS**, the Youth Advisory Commission desires a local government which is
32 responsive to all forms of expression no matter age, political attire, cultural traditional,
33 religious beliefs, etc.

34 **WHEREAS**, the Youth Advisory Commission find the procedural alterations which
35 reflect the practices of the Assembly according to *Robert’s Rules of Order, Revised*,
36 serve as a benefit to the efficiency of government and should be maintained in AMC.

1 **WHEREAS**, the Youth Advisory Commission seeks to work in collaboration with the
2 Anchorage Assembly to promote youth involvement in government through any form of
3 participation to including attending Assembly Meetings, verbally testifying, and
4 expressing beliefs symbolically.

5

6 **Now, therefore by the Youth Advisory Commission, be it resolved:**

- 7 1. *The Assembly will amend AO 2021-117 with revisions considering the current*
8 *legal fallacies which were highlighted within this resolution while maintaining the*
9 *necessary procedural updates;*
- 10 2. *If unable to properly remedy the current violations of the United States*
11 *Constitution, Alaskan State Constitution, and Anchorage Municipal Charter, the*
12 *Anchorage Municipal Assembly will rescind AO 2021-117 to reestablish civil*
13 *dialogue, debate, and testimony for the benefit of the Municipality of Anchorage.*