

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2022-13

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA AMENDING TITLE 2 "ADMINISTRATION" OF THE SITKA GENERAL CODE BY REPEALING AND REPLACING SECTIONS OF CHAPTER 2.04 "CITY AND BOROUGH ASSEMBLY" TO ADDRESS ASSEMBLY AND PUBLIC PARTICIPATION

1. CLASSIFICATION. This ordinance is of a permanent nature and is intended to become a part of the Sitka General Code (SGC).

2. SEVERABILITY. If any provision of this ordinance or any application to any person or circumstance is held invalid, the remainder of this ordinance and application to any person or circumstance shall not be affected.

3. PURPOSE. The purpose of this ordinance is to provide a comprehensive rewrite of guidelines for assembly debate, remote participation by the assembly, and public participation, both in-person and telephonic.

4. ENACTMENT. NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough of Sitka that the Sitka General Code Title 2, entitled "Administration", Chapter 2.04, entitled "City and Borough Assembly", be repealed at Section 2.04.050 entitled "Debate", 2.04.060 entitled "Rules of Public Participation", 2.04.130 entitled "Public Participation", and 2.04.185 entitled "Teleconference Participation" and replaced with 2.04.050 entitled "Conduct of Debate and Discussion", 2.04.130 entitled "Public Participation", 2.04.185 entitled "Remote Participation by the Mayor and Assembly Members", and 2.04.186 entitled "Telephonic Participation by the Public" to read as follows (deleted language stricken, new language underlined):

Title 2
ADMINISTRATION

Chapters:

2.04 City and Borough Assembly

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Chapter 2.04
CITY AND BOROUGH ASSEMBLY

Sections:

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2.04.050 ~~Debate.~~ Conduct of debate and discussion

~~2.04.060 Rules of public participation.~~

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2.04.130 Public participation.

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2.04.185 ~~Teleconference participation.~~ Remote participation by the mayor and assembly members.

2.04.186 Telephonic participation by the public.

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**2.04.050 Debate.**

~~A. During assembly debate on a motion, a member or the administrator may speak more than once with priority of access to the floor given to members or the administrator who have not spoken on the motion.~~

~~B. Assembly members, as well as members of boards, commissions and committees, staff, and members of the public, shall speak and refer to each other in a respectful manner, and shall not attack or question the motives of others.~~

~~C. After obtaining recognition from the chair, a member may ask direct questions of another member of the assembly or to a person appearing before the assembly.~~

~~D. Consideration of an ordinance by paragraph shall not be required unless demanded. A demand that consideration by paragraph take place may be overridden by a majority vote of the assembly.~~

**2.04.050 Conduct of debate and discussion.**

A. When desiring to speak, assembly members and staff shall respectfully address the presiding officer, and shall refrain from speaking until recognized by the presiding officer.

B. Members of the assembly will be recognized by the presiding officer by name. The presiding officer shall determine who shall speak first when two or more members request recognition at the same time.

C. The presiding officer shall preserve order and decorum at all times and shall make such rulings as deemed necessary to preserve order and decorum.

D. Any assembly member may challenge a ruling of the presiding officer by motion, and, if duly seconded will proceed to a vote. The presiding officer's ruling shall stand unless overridden by a majority vote of the assembly.

E. During assembly debate on a motion, an assembly member may speak more than once with priority of access to the floor given to members who have not spoken on the motion. Members shall speak to the subject under debate, endeavor to provide the body with relevant facts and arguments, and shall strive to avoid redundancy.

F. After obtaining recognition from the presiding officer, an assembly member may ask direct questions of another member, municipal staff and/or members of boards, commissions, and committees or to a person appearing before the assembly.

G. Assembly members and staff shall speak and refer to each other in a respectful manner and shall not attack the motives of others.

H. The administrator may participate in the same manner as an assembly member.

I. The municipal clerk may comment on parliamentary procedure. The municipal attorney may comment on procedural and legal issues.

J. Parties to an appeal may testify in a quasi-judicial administrative or adjudicatory proceeding, except as provided otherwise in the code.

K. Consideration of an ordinance by paragraph shall not be required unless demanded. A demand that consideration by paragraph take place may be overridden by a majority vote of the assembly.

**~~2.04.060 Rules of public participation.~~**

~~A. The hearing will be conducted by the mayor, or by the presiding officer in the absence of the mayor.~~

~~B. The mayor will open the hearing by summarizing its purposes and reemphasizing the rules of procedure.~~

~~C. The mayor may set a time limit on speakers if it appears necessary to gain maximum participation and conserve time. Such time limit may be extended by a majority of the assembly.~~

~~D. Citizens will be encouraged to submit written presentations and exhibits.~~

~~E. The mayor will set forth the item or subject to be discussed and will rule nongermane comments out of order.~~

~~F. All speakers, public and assembly members must be recognized by the chair.~~

~~G. Members of the public will precede their remarks by stating their names and area of residence.~~

~~H. Members of the assembly will be recognized by the chair by name.~~

~~1. The assembly members, members of boards, commissions and committees, staff, and members of the public who speak during public participation will refrain from argument and debate.~~

~~2. Assembly members, members of boards, commissions and committees, staff, and members of the public shall speak and refer to each other in a respectful manner, and shall not attack or question the motives of others.~~

~~I. The administrator may participate in the same manner as an assembly member.~~

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**2.04.130 Public participation.**

No person except a member of the assembly or the administrator may participate in assembly proceedings except as follows:

A. Members of the public may participate during the public participation section concerning an agenda item;

~~B. Parties to an appeal may testify in a quasi-judicial administrative or adjudicatory proceeding, except as provided otherwise in the code;~~

~~C. The municipal attorney or municipal clerk may comment on parliamentary, procedural and/or legal issues; or~~

~~D. Any assembly member may request municipal staff and/or members of commissions, committees, or boards to answer questions or provide information at any time during assembly proceedings.~~

A. Rules for public participation. There shall be an opportunity for public participation on agenda items and "Persons to be heard" at each regular meeting, special meeting, and emergency meeting of the assembly. Agenda items are those appearing on the consent agenda; board, commission, and committee appointments; unfinished business; and, new business. Public participation on "discussion/direction/decision" items, under new business, is allowed when authorized by the presiding officer or a majority vote of the assembly.

1. The presiding officer shall instruct members of the public that the testimony time available is not to exceed three minutes per individual on each item, unless the presiding officer imposes other time constraints at the beginning of the agenda item. Such time limits may be overridden by a majority vote of the assembly.

2. No person shall speak during a meeting until that person is recognized by the presiding officer. Upon recognition that person shall state their full name for the record.

3. All persons shall speak to the assembly as a whole and not to individual assembly members, or to members of the public.

4. Assembly members shall refrain from engaging in discussion with the person testifying or answering questions directed by the person testifying.

5. All persons testifying shall immediately cease speaking when notified by the presiding officer that the allotted time has expired.

6. An inquiry made by a member of the public regarding municipal business may be referred to the administrator. An answer shall not be provided at the meeting by the assembly or staff. By majority vote of the assembly, the assembly may direct the administrator or municipal attorney to report back to the assembly regarding the inquiry made by a member of the public at a meeting.

B. Rules of order and decorum.

1. The presiding officer shall preserve order and decorum at all times and shall make such rulings as deemed necessary to preserve order and decorum.

2. A member of the public shall not engage in the assembly debate or deliberations.

3. A person addressing the assembly shall not make personal, impertinent, unduly repetitive, slanderous, or profane remarks to the assembly, staff, or general public, nor use loud, threatening, personal or abusive language, nor engage in any other disorderly conduct that disrupts or otherwise impedes the orderly conduct and decorum of any meeting.

4. All persons attending any meeting must observe the assembly's rules of procedure and adhere to the same standards of order and decorum as members of the assembly. Persons in the audience shall not engage in disorderly or boisterous conduct, including the utterance of loud, threatening or abusive language, whistling, clapping of hands, stamping of feet or other acts which disturb, disrupt or otherwise impede the orderly conduct and decorum of any meeting.

C. Enforcement of order and decorum. At the discretion of the presiding officer or upon majority vote of the assembly, the presiding officer may order the removal of any person committing any of the following acts of disruptive conduct with respect to a regular meeting, special meeting, emergency meeting, adjourned meeting, or work session of the assembly:

1. Disorderly, contemptuous or insolent behavior toward the assembly or any member thereof, which interrupts the due and orderly course of the meeting;

2. A breach of the peace, boisterous conduct or violent disturbance, which interrupts the due and orderly course of the meeting;

3. Disobedience of any lawful order of the presiding officer, which shall include an order to be seated or to refrain from addressing the assembly; and,

4. Any other interference which interrupts the due and orderly course of the meeting.

Any person so removed shall be excluded from further attendance at the meeting from which they have been removed, unless permission to attend is granted upon motion made and adopted by a majority vote of the assembly before the next agenda item.

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**2.04.185-Teleconference participation. Remote participation by the mayor and assembly members.**

~~A.—The use of teleconferencing at assembly meetings is for the convenience of government officials and the public. Teleconference participation by the mayor, assembly members and the public is authorized by AS 44.62.310(a) and 44.62.312. While physical presence of the mayor, assembly members and the public is the preferred method of participation at assembly meetings, the mayor, assembly members, and the public are allowed to participate at assembly meetings in the following manner:~~

~~1.—Participation of Mayor and Assembly Members by Teleconference.~~

a.—~~Any assembly member may participate in any assembly meeting by teleconference. Teleconference participation is solely at the discretion of the assembly member who requests this method of participation if the assembly member is out of town or incapacitated. The assembly member shall notify the municipal clerk to arrange for teleconference participation by four p.m. on the Friday before the Tuesday regular assembly meeting, and at least twelve hours before any special assembly meeting.~~

b.—~~The mayor, or the presiding officer in the absence of the mayor, may also participate in any assembly meeting by teleconference. The mayor, or the presiding officer in the absence of the mayor, shall notify the municipal clerk to arrange for teleconference participation by four p.m. on the Friday before the Tuesday regular assembly meeting, and at least twelve hours before any special assembly meeting. However, the mayor, or the presiding officer in the absence of the mayor, shall not preside over the assembly meeting when participating by teleconference.~~

c.—~~The mayor and any assembly member participating by teleconference shall be deemed to be present at the assembly meeting for all purposes, including for quorum and voting, except as provided in subsection (A)(1)(b) of this section.~~

d.—~~The mayor and any assembly member participating by teleconference shall have the same right to participate in any matter as if physically present at the assembly meeting, including debate under Section 2.04.050, executive sessions, adjudicatory matters, and presentations. Reasonable efforts shall be made to make available to the mayor and any assembly member participating by teleconference any pertinent documents that are to be discussed and/or acted upon, including the assembly packet.~~

e.—~~The mayor and any assembly member participating by teleconference shall have the same right to vote on any matter as if physically present at the assembly meeting. All voting at the meeting shall be by roll call vote. The assembly member who is participating by teleconference, or the mayor when participating by teleconference, determines whether the member or the mayor has had the opportunity to evaluate all pertinent information, including any testimony and/or evidence, and is prepared to vote.~~

f.—~~Teleconference participation at any assembly meeting is limited to four times a year by each assembly member or by the mayor. However, teleconference participation by a member or the mayor will not be allowed consecutively for more than two regular meetings.~~

2.—~~Participation of Public by Teleconference. Any member of the public who will not be present within the city and borough of Sitka during any assembly meeting, and who wants to participate by teleconference concerning any agenda item which allows for public participation under Section 2.04.060, may request participating by teleconference. The assembly agenda is available from the municipal clerk and the~~

~~city and borough of Sitka website prior to the assembly meeting, in accordance with Section 2.04.010. In order to participate by teleconference, the member of public shall provide the municipal clerk with a telephone contact number for the teleconference participation by four p.m. on the Monday before the Tuesday regular assembly meeting, and at least twelve hours before any special assembly meeting. The municipal clerk will call that phone number during the public participation section on the agenda item.~~

~~B. Cost of Teleconference Participation. The mayor, any assembly member, and any member of the public who participates by teleconference shall not be charged for any telephone costs associated with the teleconference participation.~~

A. The mayor or any assembly member may participate in and vote at a regular meeting, special meeting, emergency meeting, or work session of the assembly by remote participation (videoconferencing or similar technology) provided the following circumstances are met:

1. The meeting or work session is held with a quorum of members physically present, except as provided in subsection H of this section;
2. Reasonable technical capabilities are available at the meeting location to allow the member(s) to participate, to include being able to hear and engage in discussion, and being audible to all persons participating in the meeting;
3. The member(s) participating remotely has/have the ability to obtain the meeting agenda and other pertinent documents to be discussed and/or acted upon;
4. The member(s) participating remotely shall make every effort to participate in the entire meeting and must have their video turned on except during breaks.
5. For executive session, the member(s) shall participate by telephone, not videoconference. The member(s) participating shall acknowledge that there is no other person(s) with the member(s) or in close enough proximity to hear the executive session discussion. Member(s) participating remotely are prohibited from electronically recording or taking notes in the executive session.

B. The mayor, or the presiding officer in the absence of the mayor, shall not preside over a meeting in which they are participating remotely, except as provided in subsection H of this section.

C. No more than the first three members to contact the municipal clerk requesting remote participation at a particular meeting may participate remotely, except as provided in subsection H of this section.

D. The member shall notify the municipal clerk and the presiding officer at least 24 hours in advance of their intent to participate remotely in a meeting or work session.

E. If the remote connection cannot be made or is made and then lost, the meeting shall commence or continue as scheduled and the municipal clerk shall attempt to establish or

restore the connection, provided that if the member(s) participating remotely is/are necessary to achieve a quorum, the meeting shall recess or adjourn as necessary until the remote connection is established or restored.

F. All voting at the meeting when a member(s) is/are participating remotely shall be by roll call vote.

G. For the mayor and other assembly members, remote participation is limited to four regular meetings during the twelve-month period. This twelve-month period begins at the first regular meeting of the assembly after the regular election in October. Remote participation by the mayor or a member will not be allowed consecutively for more than two regular meetings. Remote participation in a meeting while out of town on municipal business does not count toward the four times for which remote participation is limited or toward the two consecutive regular meetings limit on remote participation.

H. When the administrator, assembly, governor, or federal government has declared an emergency, a quorum of assembly members may be established with the combined total of members participating physically, partially remote, or entirely remote. In this instance the mayor, or presiding officer, may preside over the meeting remotely. When an emergency has been declared, limits established in subsection G don't apply.

I. The mayor or any assembly member(s) who participate(s) remotely shall not be charged for any costs associated with remote participation.

#### **2.04.186 Telephonic participation by the public.**

A. Any member(s) of the public may request to provide comment by telephone on any agenda item or "Persons to be heard" which allows for public participation under Section 2.04.130(A). To participate by telephone, the person shall provide the municipal clerk with a telephone contact number and indicate which agenda item(s) they wish to provide comment on by 5:00 p.m. on the Monday before the Tuesday regular meeting, and at least 24 hours before any special or emergency assembly meeting, when such notice is reasonably practicable. The municipal clerk will call that phone number during the public participation section on the agenda item or during "Persons to be heard". If the person is not available at the time of public comment for the item, the presiding officer will move to the next person. A person participating by telephone must be able to hear and engage in discussion and be audible to all persons participating in the meeting.

B. Any member(s) of the public who participates by telephone shall not be charged for any costs associated with telephonic participation.

C. Public participation rules and enforcement in Section 2.04.130 apply to members of the public participating by telephone.

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**5. EFFECTIVE DATE.** This ordinance shall become effective the day after the date of its passage.




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**PASSED, APPROVED, AND ADOPTED** by the Assembly of the City and Borough of Sitka, Alaska, this 24<sup>th</sup> day of May, 2022.

  
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Steven Eisenbeisz, Mayor

ATTEST:

  
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Sara Peterson, MMC  
Municipal Clerk

1<sup>st</sup> reading: 05/10/2022

2<sup>nd</sup> and final reading: 05/24/2022

Sponsors: Knox / Mosher / Duncan