

## **POSSIBLE MOTION**

**I MOVE TO** approve Emergency Ordinance 2020-44 on first reading temporarily authorizing the Mayor to modify and/or waive various sections of the Sitka General Code dealing with public meetings and teleconference participation in those public meetings in order to protect the life, health, welfare, and property of elected and appointed officials, staff, and the public during the government declared COVID 19 public health emergency.




# City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

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## MEMORANDUM

**To:** Mayor Paxton and Assembly Members

**Thru:** John Leach, Municipal Administrator 

**From:** Brian Hanson, Municipal Administrator

**Date:** August 5, 2020

**Subject:** Emergency Ordinance for Temporary Modification of Public Meetings During the Government Declared COVID-19 Public Health Emergency.

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### Background

Since the federal, state, and municipal governments declared the COVID-19 public health emergency in March 2020, the Assembly has conducted public meetings that are not always strictly in compliance with code-examples include, but are not limited to, the following: Assembly members failing to timely notify Clerk of teleconference participation; Mayor presiding over a meeting when participating by teleconference; Assembly members participating by teleconference more than four times a year and/or consecutively for more than two regular meetings; and, the public submitting written public testimony to be read by the Clerk.

### Recommendation

Although the practices procedures used by the Assembly up to now, in my opinion, are clearly appropriate and necessary for public health and safety, I recommend you take this “housecleaning” measure by enacting this EO to legitimate, retroactively and proactively, those practices and procedures which were/are technically in violation of the code. If this EO is passed, I’ll prepare a declaration for the Mayor which addresses past and future practices and procedures, which can be read by the Mayor at the next regular meeting.

CITY AND BOROUGH OF SITKA  
ORDINANCE NO. 2020-44

AN EMERGENCY ORDINANCE OF THE CITY AND BOROUGH OF SITKA  
TEMPORARILY AUTHORIZING THE MAYOR TO MODIFY AND/OR WAIVE  
VARIOUS SECTIONS OF THE SITKA GENERAL CODE DEALING WITH PUBLIC MEETINGS  
AND TELECONFERENCE PARTICIPATION IN THOSE PUBLIC MEETINGS  
IN ORDER TO PROTECT THE LIFE, HEALTH, WELFARE, AND PROPERTY  
OF ELECTED AND APPOINTED OFFICIALS, STAFF, AND THE PUBLIC  
DURING THE GOVERNMENT DECLARED COVID-19 PUBLIC HEALTH EMERGENCY

BE IT ENACTED by the Assembly of the City and Borough of Sitka as follows:

1. **CLASSIFICATION.** This emergency ordinance is not of a permanent nature and is not intended to be a part of the Sitka General Code of the City and Borough of Sitka.
2. **SEVERABILITY.** If any provision of this emergency ordinance and application thereof to any person and circumstances is held invalid, the remainder of this emergency ordinance and application thereof to any person and circumstances shall not be affected thereby.
3. **PURPOSE.** The purpose of this emergency ordinance is to temporarily authorize the Mayor, or presiding Assembly member, to modify and/or waive, either retroactively from inception of the government declared COVID-19 public health emergency and/or proactively until this emergency order expires, sections of the Sitka General Code dealing with public meetings and teleconference participation of elected and appointed officials and the public, such that scheduling, public participation, and teleconferencing (whether telephonic or audio-visual) is conducted in such a way as to protect the lives, health, and welfare of elected and appointed officials, staff, and the public, provided that any such modifications and/or waivers comply with state law. More specifically:

**WHEREAS**, in March of 2020, the federal, state and municipal governments declared a public health emergency due to the COVID-19 pandemic and those declarations remain in effect; and

**WHEREAS**, the Assembly recognizes that, for purposes of this emergency ordinance, an emergency currently exists due to the COVID-19 pandemic that affects the life, health, welfare and property of persons in Sitka; and

**WHEREAS**, the COVID-19 public health emergency continues to pose an imminent threat to life, health, welfare, and property of persons in Sitka; and

**WHEREAS**, the Assembly is concerned about its continuity of operations, and the continuity of operations of its boards, commissions, and committees, and requires the flexibility to schedule certain public meetings and/or modify meeting procedures, including teleconference participation by elected and appointed officials, staff, and the public, to protect the appointed and elected officials, staff, and the public; and

**WHEREAS**, this authorization is intended to be temporary during this government declared COVID-19 public health emergency and will provide time for the Assembly to further assess its code and procedures if permanent code changes are determined to be necessary.

4. **ENACTMENT.** NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough of Sitka as follows:

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**A.** Notwithstanding anything in the Sitka General Code to the contrary, the Mayor, or presiding Assembly member, has the authority to modify and/or waive provisions pertaining to scheduling, public participation, teleconferencing, and other related provisions of code related to public meetings of the Assembly, if deemed necessary for public health and safety; provided that, any modification and/or waiver is in compliance with state law.

**B.** Notwithstanding anything in the Sitka General Code to the contrary, the Mayor, or presiding Assembly member, has the authority to modify and/or waive provisions pertaining to scheduling, public participation, teleconferencing, and other related provisions of code related to public meetings of boards, commissions and committees, if deemed necessary for public health and safety; provided that, any modification and/or waiver is in compliance with state law.

**C.** Enactments A and B may be applied retroactively from the inception of the government declared COVID-19 public health emergency and/or proactively until this emergency order expires.

**5. EMERGENCY DECLARATION.** In accordance with the Home Rule Charter of the City and Borough of Sitka, Section 3.03 “Emergency Ordinances,” the Assembly of the City and Borough of Sitka hereby declares that an emergency exists that affects the life, health, welfare or property of persons within Sitka for those reasons stated above.

**6. EFFECTIVE DATE.** This emergency ordinance shall become effective on the day it is adopted.

In accordance with the Home Rule Charter of the City and Borough of Sitka, Section 3.03 “Emergency Ordinances,” this emergency ordinance may be adopted at the meeting which it is presented and shall expire 61 days after adoption, but this shall not prevent re-enactment of this emergency ordinance if the emergency still exists upon expiration. Accordingly, this emergency ordinance is pre-scheduled for re-enactment under unfinished business at the September 22, 2020, regular meeting of the Assembly.

**PASSED, APPROVED, AND ADOPTED** by the Assembly of the City and Borough of Sitka this 11<sup>th</sup> day of August, 2020.

\_\_\_\_\_  
Gary L. Paxton, Mayor

ATTEST:

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Sara Peterson, MMC  
Municipal Clerk

1<sup>st</sup> reading – Emergency Ordinance 8/11/2020 in accordance with Home Rule Charter, Section 3.03.

Re-enactment pre-scheduled for 9/22/2020 to address and extend the 61-day expiration.

Sponsor: Administrator