

DENALI BOROUGH, ALASKA
ORDINANCE 20 – 07
RENEWED AND EXTENDED

INTRODUCED BY: MAYOR CLAY WALKER

AN EMERGENCY ORDINANCE ISSUING A DECLARATION OF DISASTER EMERGENCY IN RESPONSE TO COVID-19 AND TEMPORARILY SUSPENDING THE RULES REQUIRING IN-PERSON ATTENDANCE TO ESTABLISH A QUORUM UNDER DENALI BOROUGH CHARTER SECTION 2.08.

WHEREAS, the United States Centers for Disease Control and Prevention (CDC) has identified COVID-19, a respiratory disease that can result in serious illness or death and that is a new strain of coronavirus not previously identified in humans, as posing a significant public health risk; and

WHEREAS, on March 13, 2020, the United States President declared a national emergency concerning the novel coronavirus disease (COVID-19) outbreak; and

WHEREAS, on March 11, 2020, the Governor of Alaska issued a Declaration of Public Health Disaster Emergency; and

WHEREAS, the COVID-19 pandemic may dramatically impact the Borough communities and residents; and

WHEREAS, the COVID-19 has already and will continue to dramatically impact the Borough economy; and

WHEREAS, the full extent and effect of COVID-19 cannot yet be known, it remains vital for the Borough to be prepared and take all needed precautions throughout the entire timeframe of the COVID-19 emergency, and

WHEREAS, the Borough wishes to authorize the Mayor to request any and all applicable State and Federal assistance associated with the Borough's response to and recovery from the damage caused by the COVID-19 emergency; and

WHEREAS, in accordance with DB Code 3.20.090, the Borough Assembly recognizes that this declaration of a local state of emergency authorizes expenditures necessary to mitigate and respond to the emergency situation from the Disaster Contingency

Reserve Fund. It is the intention of the borough that these funds be used for expenses which are eligible for federal or state disaster reimbursement.

WHEREAS, on March 24, 2020 the Governor of Alaska issued Health Mandate 011: Social Distancing, ordering that “All individuals shall cease participation in public or private gatherings that include non-household members, regardless of the number of people involved.”; and

WHEREAS, Health Mandate 011 additionally states, “This mandate supersedes any local government or tribal mandate, directive, or order.” and;

WHEREAS, Denali Borough Charter Section 3.04 Emergency Ordinance reads:

1. To meet a public emergency the Assembly may adopt ordinances effective upon adoption. Every emergency ordinance must contain a finding by the Assembly that an emergency exists and a statement of the facts upon which the finding is based. An emergency ordinance may be adopted, amended and adopted or rejected at the meeting at which it is introduced. The affirmative vote of all members present, or the affirmative vote of three-fourths of the total membership authorized in this Charter, whichever is less, is required for adoption. The Assembly must print and make available copies of adopted emergency ordinances.
2. An emergency ordinance may not be used to levy taxes, to grant, renew or extend a franchise, or to regulate the rate charged by a public utility for its services.
3. Emergency ordinances are effective for sixty days.

WHEREAS, telephonic meetings would allow for separation of individuals who may carry the virus while fulfilling the requirements of the Alaska Open Meetings Act, which reads in relevant part:

(a) Meetings of all municipal bodies shall be public as provided in AS 44.62.310. The governing body shall provide reasonable opportunity for the public to be heard at regular and special meetings.

and AS 29.20.020, which reads in relevant part:

(a) All meetings of a governmental body of a public entity of the state are open to the public except as otherwise provided by this section or another provision of law. Attendance and participation at meetings by members of the public or by members of a governmental body may be by teleconferencing. Agency materials that are to be considered at the meeting

shall be made available at teleconference locations if practicable. Except when voice votes are authorized, the vote shall be conducted in such a manner that the public may know the vote of each person entitled to vote. The vote at a meeting held by teleconference shall be taken by roll call. This section does not apply to any votes required to be taken to organize a governmental body described in this subsection.

(e) Reasonable public notice shall be given for all meetings required to be open under this section. The notice must include the date, time, and place of the meeting and if, the meeting is by teleconference, the location of any teleconferencing facilities that will be used.

WHEREAS, there is no provision made for a telephonic quorum of Assembly Members to be recognized in the current Denali Borough Code; and

WHEREAS, the Assembly finds that a public emergency exists and deems it necessary to declare a local emergency and suspend the rules requiring in-person attendance by Assembly Members to protect the health, safety, and welfare of the residents of the Borough.

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE DENALI BOROUGH AS FOLLOWS:


1. The Assembly of the Denali Borough finds and declares a local disaster emergency in response to COVID-19.
2. The Assembly of the Denali Borough authorizes the Mayor to request State and Federal assistance to meet the ongoing emergency created by COVID-19.
3. The requirement of physical presence of assembly members at assembly meetings contained in Denali Borough Charter Section 2.08, Denali Borough Code Chapters 2.15.030 and 2.15.040 and elsewhere in the code are suspended for 60 days, effective immediately, and a quorum shall be considered reached with at least five assembly members participating telephonically, so long as the public and each participating assembly member can participate both by hearing and being heard, in accordance with the Alaska Public Meetings Act and other relevant state law, as quoted above.
4. For the purposes of this emergency ordinance, telephonic participation shall include any electronic mode that both allows the user to hear all participants and, if making comment, to be heard by all participants.

5. All residents and visitors to the Borough are expected to maintain social distancing and other health mandates throughout the entire period of this emergency.
6. This emergency ordinance shall become effective immediately upon adoption.
7. Due to the uncertain nature of the length of this emergency, this emergency ordinance ~~may be~~ (was) renewed by affirmative vote of the Assembly ~~so long as the above discussed national, state or any future local disaster declaration is in place related to the current outbreak of COVID-19~~ (and extended to mirror the date of the State of Alaska Public Health Disaster Emergency Declaration).

APPROVED AND ADOPTED, BY THE DENALI BOROUGH ASSEMBLY ON THE 8th DAY OF APRIL, 2020. RENEWED AND EXTENDED ON THE 27TH DAY OF MAY, 2020.



Clay Walker, Mayor

ATTEST:


Amber Renshaw, Borough Clerk

