AN ORDINANCE OF THE ANCHORAGE ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 28.150 REGARDING THE EMERGENCY PLAN FOR ELECTIONS TO CLARIFY THE SCOPE OF THE MUNICIPAL CLERK’S POWERS TO PRESERVE THE INTEGRITY OF AN ELECTION DURING UNFORESEEABLE EVENTS AFFECTING AN ELECTION.

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code section 28.150.030 is hereby amended to read as follows:

28.150.030 - Powers of the municipal clerk.

A. In an emergency, the municipal clerk is authorized to take action to preserve the integrity of the election, while at the same time allowing eligible voters to vote who might otherwise not get an opportunity.

B. Actions authorized under this chapter may include, but are not limited to:
   1. Requesting expedited relief from a court of competent jurisdiction,
   2. Keeping all or some polling locations, accessible vote centers, and ballot drop boxes open longer than allowed by code,
   3. Closing all or some polling locations, accessible vote centers, and ballot drop boxes permanently or for a limited time regardless of the requirements in this title, while providing eligible voters other opportunities to vote,
   4. Accepting applications to vote at temporary addresses, to vote electronically, or for special needs voting after the deadlines in this title but before the close of the election,
   5[3]. Moving polling locations, accessible vote centers, and ballot drop boxes, and
   6[4]. Accepting votes not cast on official ballots.

C. The municipal clerk shall take steps to maintain a record of the action taken and, if possible, adequately segregate votes cast, so that a court may rule on the action taken and accurately add or subtract votes as may be necessary. The municipal clerk shall provide public notice of changes to matters required by other sections of this title. This includes the notice of election, polling locations, accessible vote centers, and ballot drop boxes, if the changes substantially differ from a previous published notice. A notice of changes may, but is not required to, be published in a newspaper of general circulation.
Section 2. Anchorage Municipal Code section 28.150.060 is hereby amended to read as follows:

28.150.060 - Assistance of peace officers.

A. If weather, [OR] road conditions, or other unforeseen circumstances prevent election officials from delivering election materials or ballots to or from the polling locations, accessible vote centers, ballot drop boxes, or the designated return location, the municipal clerk may cause the delivery to be made by a peace officer or other municipal official.

Section 3. This ordinance shall be effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 20th day of March, 2020.

Chair

ATTEST:

Jennifer Veneracion
Municipal Clerk
MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

No. AM 165-2020

Meeting Date: March 12, 2020

From: Municipal Clerk

Subject: AN ORDINANCE OF THE ANCHORAGE ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 28.150 REGARDING THE EMERGENCY PLAN FOR ELECTIONS TO CLARIFY THE SCOPE OF THE MUNICIPAL CLERK’S POWERS TO PRESERVE THE INTEGRITY OF AN ELECTION DURING UNFORESEEABLE EVENTS AFFECTING AN ELECTION.

The integrity of Anchorage’s elections are important, and the Anchorage Municipal Code provides the procedures and rules to protect them. This provides the voters, candidates, campaigns, media, and the public clear expectations of how elections will be conducted. The reality is, sometimes unforeseen circumstances and public emergencies disrupt or frustrate the Municipal Clerk’s administration of an election and changes are necessary to protect the voter franchise, security and privacy of the ballots, and integrity of the election.

That is the reason the Emergency Plan was adopted in the Elections Code, Title 28 of the Anchorage Municipal Code, by AO 2013-130(S-1). The current spread of the Coronavirus (Covid-19) and public health advisories on how to protect oneself and the public have prompted the Municipal Clerk to review the Emergency Plan provisions to evaluate whether the tools necessary to address effects of Covid-19 on voters and election workers are sufficient. Although there are no confirmed cases of any person being infected with Covid-19 at the time of introduction of this ordinance, we should be prepared for the April 7, 2020 election with the appropriate tools in the Emergency Plan.

Persons who suspect they may have contracted Covid-19 or whom are in a high-risk vulnerable class are advised to self-quarantine or avoid places people congregate or pass through. Persons over age 60 are considered vulnerable to the virus, and all but a few of the current election officials are in this category. Many may understandably refuse to work at accessible vote centers or the Election Center if Covid-19 spreads to Anchorage during our election to protect their health and lives. A possible scenario is the election may be so short of staff that ballot security may be compromised and locations must close as a result. Even so, the Municipal Clerk’s Office wants to make sure all voters have the option to vote. The proposed ordinance explicitly gives the Municipal Clerk the authority to close the accessible vote centers, if necessary, provide for alternative means to receive and cast ballots, and ultimately protect the integrity of the election.

There are no anticipated economic effects from adding this authority to the Emergency Plan although there may be if exercised, so a summary of economic effects is not submitted.
We request your support for the ordinance.

Prepared by: Municipal Clerk and Assembly Counsel
Respectfully submitted: Forrest Dunbar, Assembly Chair
District 5, East Anchorage

John Weddleton, Assembly Vice-Chair
District 6, South Anchorage, Turnagain Arm, and Girdwood
From: CHAIR

Subject: PUBLIC TESTIMONY

Because of the federal, state, and local health department guidance and emergency measures related to COVID-19, the number of people allowed in the Assembly Chambers is limited. Community members were encouraged to provide public testimony regarding agenda items via email. Attached for your review are the comments received at testimony@anchorageak.gov by 2pm today.

Prepared by: Jennifer Veneklasen, Deputy Municipal Clerk, Assembly Department

Respectfully submitted: Forrest Dunbar, Chair
On all items addressing protection of both the Anchorage and Alaskan communities:

1. In addition to this resolution and passage of the ordinance granting MOA’s Mayor emergency powers, we must also close our borders except for medical equipment, medical supplies, medical personnel, and cargo related to the food supply chain and other essentials. We need to stop non-essential travel into Alaska for the foreseeable future. Although severe, the measures taken in China appear to be working. We have to be willing to make sacrifices for the good of all.

2. Local travel from rural communities to hubs should also be essential only – such as for bringing the sick to hospitals, taking them home, taking medicine, food and fuel and other essentials to rural Alaska. Local small airlines need to be willing to volunteer their services. The state should subsidize their fuel and personnel costs. (If Alaska Airlines expects a bail out they need to guarantee no layoffs, no CEO bonuses, and no buy backs)

3. Grocery stores must limit customers to one item of each kind, or a certain weight of a fruit/vegetable as much as possible. Hoarding must be stopped.

4. Laid off workers should be offered jobs related to the building and operation of additional infrastructure to support medical needs – clinics, extra buildings for beds at the hospitals we have now, and expanding clinics at rural hubs to add beds and equipment. There will be other virus related projects that the unemployed should be given the opportunity to work on.

5. Acquisition of more ventilators is a priority. Alaskans could be asked to give up their PFDs for the foreseeable future so the state can buy more if the state’s emergency fund is insufficient for this and related purposes such as PPE. Anyone with unused stockpiled PPE should be required to turn it in to the hospitals unless they can demonstrate they have someone sick at home.

6. Mayors of all communities could do PSAs to run daily on radio and TV to educate? I don’t think everyone gets why we have to flatten the curve and I’m confident that when they do, most people will behave react accordingly.

During WWII Europe and the USA pulled together and put the greater common good first. We are called upon to do the same now.

Helen Sharratt
MOA resident
Comments as follows from Barbara Pape & Jerome Pape

Item 6 – Ordinance # AR 2020-88.

Pdf page 2, encompassing items under “Resolved that the Anchorage Assembly Calls Upon”

- Item 1. Consider carefully impacts of expending effort on items that are regulated at the State of Alaska and/or Federal level. If the Municipal Administration is being asked to explore support for moratoriums or mitigation actions for evictions, this is a State and Federally regulated item that should be left to those entities.

  - IF the Anchorage Assembly chooses to keep this text in the resolution, then it should also look at addition of exploring delaying of submittal of property taxes for 2020 at no penalty to the property owners/landlords. And/or reduction of property taxes equivalent to funds that may be lost by property owner of not being able to recuperate rents not received from those that have lost ability to pay. These individuals may not have not economic or employment opportunity available for months to catch up, if ever, due to the COVID impacts.

- Item 2. Unemployment – Consideration of unemployment eligibility for those who are also dealing with substantially reduced work hours is appropriate. A 24 hour work week will not cover most bills, even before health insurance considerations. Consider expansion of this statement to consider eligibility for unemployment benefits due to lack of available jobs within the Anchorage area – issues which started with the recession prior to COVID-19 – revisit the manner in which the base calculation is performed to establish unemployment pay benefits to allow opportunity for an increase in benefits. And/or application of secondary benefits if Federal emergency funding becomes available. Most people may not be expected to recover from the economic hits within 16 to 26 weeks – and many businesses may not have adequate jobs available within this window.

- Item 4 asks landlords and property owners to consider suspending rent increases while other expenses continue to rise for these entities. Please limit the resolution to no more than this statement. Over the past few years, costs of taxes, utilities, contracted repairs, have all increased. And housing competition within particular types of units has increased in Anchorage. All this results in cost increase for maintaining a property.

- Item 5 – utility companies. Add an additional item for consideration, based on the following:

  - For those with automatic transfer of utilities to landlord in event of delinquent payments, billing should remain in the tenants name if they are still occupying property under a “no eviction” moratorium. To revert utilities back to landlord in this situation would be passing costs to them that they may not be allowed to protect themselves from and/or recuperate from tenant.
March 20, 2020

TESTIMONY TO THE ANCHORAGE ASSEMBLY

RE: AR No. 2020-88

SUBMITTED BY: Larry L Parker, CEO YMCA of Alaska

The recent emergency order EO-01 in response to COVID-19 was a direct and understandable effort to protect the health of our community. AR No. 2020-88 attempts to address the social and economic impact of COVID-19 and of EO-01. It has been less than a week and impact was immediate and the mid and long-term outlook looks bleak.

It is very likely that the emergency closures ordered will need to be extended to assure the safety of our community. Therefore, now is the time for local governments to involve profit and nonprofit businesses that provide community health, well-being and recreation services. By categorizing these services as a ‘gym’ overlooks the variety of services provided that our community has come to rely on. Providing forms of financial relief in some form (tax relief, utility deferrals) will help. More importantly, working with providers we may be able to help mitigate health risk, still provide essential services and reduce the economic impact for our employees and the organization itself. The Y has already issued lay off notices for over 70 staff, mostly part time positions but full-time positions will be under review next week.

We understand that in these challenging times difficult decisions need to be made. Now is the time to involve the businesses most affected in the decision-making process so that we can help achieve the overall goal health goals of the community in relation to COVID-19 without devastating the financial health of our organizations.

If we don’t act now, the Y and other community partners will not be able to continue operations as they have in the past, if at all. This will leave our neighbors and our communities without essential resources and services they rely on. Many of the services we provide contribute to individuals preventing and controlling chronic disease through evidence-based health interventions. Those living with hypertension, arthritis and cancer manage their condition and restore their health through these interventions. These community-based interventions are an important component to supporting the health system and controlling escalating health care costs. What would happen if all of that went away? For the sake of our communities, we don’t want to find out. That’s why the Y has joined with other local businesses in our community to ask to become part of the solution so we can continue to offer critical services to our communities. We are willing to help and we are way more than just a ‘gym.’
TESTIMONY TO THE ANCHORAGE ASSEMBLY

Submitted by: O’Malley Ice & Sports Center LLC
Steve Agni, Co-Managing Member

Date: 3/20/2020
Re: Coronavirus Impact and Comment on Resolution 2020-88

Members of the Assembly:

I am the executive manager of the O'Malley Ice and Sports Center which is an Anchorage business that has been severely impacted by the "Coronavirus" event.

The O'Malley Ice and Sports Center is a two building complex. The Ice Arena building houses a dual ice rink facility and the adjacent Sports Center building includes four basketball size court venues and also hosts the trampoline park "Get Air" These active recreation sport venues are in south Anchorage south of O'Malley Road between the new Seward Highway and Old Seward Highway. See: OmalleySports.com

Including the operation of our tenants such as Get Air and the Kindred Spirits coffee café and drive up, the combined peak employment at the O’Malley Center is about 90 persons.

Starting in late February we began loosing business due to the cancelation of important tournament play on account of the coronavirus and then, the Mayor's emergency closure order ceased all operations as of March 16. With the adoption of EM-01 we are completely out of business as it also applied to the two restaurants within the building; the “Blueline Pub” and the “Kindred Spirits Café”. The Kindred Spirits drive up coffee stand in the parking lot is still open.

The facilities garner most of the annual operating profit that provides the cash reserves for the slower summer season during the period February through April. Those revenues are now completely gone, and missed due to virus caused cancelations and now the MOA closure order.

When we do get re-opened, maybe by mid to late spring?; it will be just as the slow, low revenue summer season is upon us. So our facilities and the business they generate really are in a worse case position, not of our making or responsibility.

We are asking that the Assembly provide some relief to the Active Recreation and Health Community. Our specific requests are:

1) We must be allowed to defer property tax payments without penalty for at least 120 days on real property subject to the closure order.

The summer property tax obligations now present a burden impossible to shoulder due to the absence of the usual strong late winter early spring revenues. Being allowed to defer payment for only 120 days is a modest accommodation that provides a huge cash flow benefit which will allow active recreation, health and wellness businesses to rebuild their patronage and resume

O'Malley Ice and Sports Center 3/20/2020 Testimony to Anchorage Assembly
normal operations and most importantly regular employment again. The typical fall season will provide the revenues to catch up on the deferred property taxes.

*The deferral of taxes will not place an undue burden on the Municipal finances.* Assuming for analysis a most generous round number of One Hundred Million Dollars of assessed valuation for the real property qualifying for deferral, the real cost to the MOA as a result of the deferral based on a four percent 4% cost of funds to the Municipality is only $20,460!

\[ 100,000,000 \text{ Assessed Valuation} \times 15.5 \text{ Mills} \text{ or } 0.015 \times 120 \text{ days or } .33 \text{ years x 4% cost of funds yields } $20,460. \]

Not only will this formal deferral provide critical cash for resuming operations, it will importantly prevent the occurrence of default (and the penalties triggered by default) under the commercial mortgages financing these facilities which would necessarily result from any late payment of those property tax obligations!

The U. S. Government has extended the deadline for payment of federal income taxes. See: [https://www.wsj.com/articles/u-s-postpones-april-15-tax-deadline-for-90-days-for-millions-of-americans-11584463242](https://www.wsj.com/articles/u-s-postpones-april-15-tax-deadline-for-90-days-for-millions-of-americans-11584463242) The Municipality of Anchorage has the financial power and the legal ability to make this minor accommodation that provides significant relief in this time of distress,

2) Payments to AWWU can be stretched out and extended for up to six months without penalty provided the business is paying not less that half of the amount then due and owed for the period March 1 through the emergency closure period.

3) Other Municipal fees, health permits, personal property tax should be waived for 2020.

O’Malley Ice and Sports Center and its tenants is just one player in the active recreation and health community that provides good wages to about 90 people and brings visitors to Anchorage for tournament play in an ordinary year, generating bed tax revenues and other business in Anchorage. The business has been operated for twenty years serving adults and youth. This important enterprise has paid taxes well in excess of 2.5 million dollars over its tenure and has earned the public trust to be granted the relief sought here.

“O’Malley” and all the participants in the active recreation and health industry in Anchorage make a significant contribution to the quality of life in Anchorage and the maintenance of good physical and mental health of the citizens of Anchorage. With the help of this Assembly we can resume that mission soon.
March 20, 2020

The Honorable Forrest Dunbar, Chair
Anchorage Assembly
by email: testimony@muni.org

Re: Expansion of the Mayor’s Powers in Public Health Emergencies

Dear Chair Dunbar:

The American Civil Liberties Union (ACLU) of Alaska thanks you for the opportunity to provide feedback on Anchorage Ordinance 2020-34(S), which would expand the powers of the Mayor of the Municipality of Anchorage in public health emergencies. As government takes the necessary steps to ensure public health, it must also safeguard people’s civil rights and liberties, particularly rights to due process, privacy, and equal protection. Unfortunately, history teaches us that our government is most prone to committing abuses in times of crisis, and we must ensure that broad powers are not misused beyond legitimate needs. We offer our recommendations here for eight amendments based on key principles to ensure that the Municipality strikes the appropriate balance between providing for public health and wellbeing while protecting everyone’s civil liberties.

Any government restrictions on liberty must be scientifically justified, and the least restrictive measures available to protect the public health.

The ACLU has always recognized that, during a contagious disease outbreak, such as this COVID-19 pandemic, individual rights must sometimes give way to the greater good. To a disease, we are not just individual hosts but a big, collective biomass. It is crucial, therefore, that restrictions on liberty, such as isolation or quarantine measures, are scientifically justified in their effectiveness and proportionality. The decisions of government actors in public health emergencies should be based on science and the recommendations of public health experts, not politics or prejudice.

Recommended amendment: clarification that public health emergency designations are based on science and public health expertise.
As currently written, AO 2020-34(S) does not make explicit that a public health emergency is, by definition, grounded in the scientific judgment of public health experts. “Public health emergency” is currently defined as “an occurrence or imminent threat of an illness or health condition that is believed to be caused by” infectious agents and the like (p2, lines 1-20). We recommend amending the ordinance to clarify that a designation of a public health emergency requires the identification of a threat by public health experts, such as the federal Centers for Disease Control and Prevention, or state and local public health experts.

**Recommended amendment: requiring that the mayor act in alignment with public health guidance**

As currently written, AO 2020-34(S) uses the phrase “concurrence of the municipal medical officer” for certain provisions, and “in consultation with the municipal medical officer” for others. Notably, only “consultation,” not “concurrence,” is required for the mayor:

- to subject individuals to “testing, screening, or an examination” (p3, lines 20-26);
- to “order administration of medication or other medical treatment” (p5, lines 14-18); and
- to “isolate or quarantine and individual or groups of individuals” (p5, lines 37-44).

Because consultation does not require concurrence, a mayor could act to restrict liberties based on considerations other than public health recommendations; popular opinion, fear, bias, and stigma can be powerful pressures on elected officials in an outbreak. We recommend amending the ordinance to replace “consultation with the municipal medical officer” with “concurrence of the municipal medical officer” in the relevant provisions.

**Recommended amendment: ensuring that government choose the least restrictive measures consistent with public health guidance**

While individual liberties must give way to protecting the public in an outbreak, government actors should always choose the least restrictive measures to achieve public health goals. As currently written, AO 2020-34(S) gives the mayor broad powers to test, screen, treat, isolate, and quarantine, but does not explicitly bound those powers within this important principle. We recommend amending the ordinance to clarify that the powers of the mayor in a public health emergency should always default to the least restrictive measures available to protect public health.

*Any government restrictions on liberty must be continually re-evaluated to ensure they remain justified in light of scientific evidence as conditions evolve.*
As we have seen in recent weeks, an infectious disease outbreak can evolve rapidly, and the measures needed to combat it should evolve as well. Government actors should be continuously re-evaluating interventions, particularly as conditions abate, to ensure they align with public health guidance in the least restrictive way available.

**Recommended amendment: require regular re-evaluation of emergency measures**
The mayor’s authority to issue emergency proclamations, as described in Anchorage Municipal Code section 3.80.040, does not require that emergency orders be time-limited; the Assembly, however, has the Charter-granted authority to end an emergency declaration. Because public health emergencies can extend over a long period of time, and the scientifically justified interventions may need to change over that time, we recommend that AO 2020-34(S) be amended to enable the Assembly to regularly re-evaluate emergency measures in light of changing conditions and public health guidance by requiring regular reports from the Mayor to the Assembly about the state of the emergency and the Municipality’s response.

Anyone subject to mandatory medical procedures, isolation, or quarantine must have due process rights, including the right to challenge those orders before a neutral decision-maker and the right to legal counsel. Anyone subject to mandatory medical procedures, isolation, or quarantine should be informed of these rights.

The right to receive (or not receive) any medical procedure, such as tests, screenings or treatments, consistent with a person’s expressed wishes or best interests, is anchored in the fundamental civil liberties principles of autonomy and self-determination, privacy, liberty, and the freedom of thought and religion. Individuals who challenge a mandatory medical procedure or orders to constrain their liberty ought to have access to counsel and be informed of their rights.

**Recommended amendment: ensure those who challenge mandatory medical testing, screening, or treatment have access to counsel and are informed of their rights**
While AO 2020-34(S) contemplates that an individual may object to mandatory testing orders and provides for a hearing before the court (p4, lines 47-49 and p5, lines 1-5), and also allows that voluntary isolation or quarantine measures may substitute for involuntary medical treatment (p5, lines 20-24), it does not ensure those subject to mandatory testing, screening, or quarantine have access to counsel, nor does it require that individuals be informed of their right to challenge these

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1 Anchorage Municipal Charter, section 5.02(d).
mandatory orders. We recommend amending the ordinance to ensure these protections are in place.

**Recommended amendment: remove cost barriers from the exercise of the right to refuse mandatory medical treatment**

AO 2020-34(S) currently allows for the refusal of mandatory medical treatment, particularly when isolation or quarantine measures are determined by the mayor or municipal medical officer as an acceptable substitute to prevent the spread of a communicable disease (p5, lines 20-24). This provision nevertheless allows the mayor to penalize those who refuse medical treatment by charging them for “all costs incurred by the municipality” to effectuate an isolation or quarantine order. A person may have valid reasons to refuse a medical treatment, and may even voluntarily self-isolate or self-quarantine in lieu of treatment. The imposition of a financial penalty, however, may make these choices illusory for those who are economically disadvantaged. Just as disease doesn’t distinguish between rich and poor, neither do our civil rights and liberties.

**Recommended amendment: remove the threat of “indefinite” quarantine or isolation for those refusing medical treatment**

As currently written, AO 2020-34(S) allows the mayor to notify individuals who refuse mandatory treatment that they may be subject to “an indefinite period of quarantine or isolation” (p5, lines 29-33). A period of quarantine or isolation should only last as long as is medically indicated; to inform people who exercise their right to refuse medical treatment that the Municipality may indefinitely isolate them is not based on medical justification, and seems only designed to coerce compliance.

**Recommended amendment: ensure those who challenge mandatory isolation or quarantine orders have the right to legal counsel and are informed of their rights**

As currently written, AO 2020-34(S) grants an individual the right to a hearing before the superior court to challenge an isolation or quarantine order (p8, lines 22-42). We recommend amending this section to include the right to legal counsel, and the requirement that anyone subject to mandatory isolation or quarantine orders be informed of their due process rights.

**Any government restrictions on liberty must not be imposed or implemented in a manner that discriminates against individuals on the basis of a protected characteristic (race, religion, national origin, LGBTQ+ status, etc.).**

The Municipality of Anchorage has codified the important and fundamental value of equal rights and nondiscrimination in its comprehensive, inclusive civil nondiscrimination ordinance. This same value should hold in any mayor’s exercise...
of their public health emergency powers. Unfortunately, history shows that infectious disease may become associated in the public imagination with a particular group of people, and may trigger prejudices. Infectious diseases do not discriminate, and neither should the actions our government takes to protect us from them. The amendments proposed above—to clarify that the declaration of public health emergencies is based on scientific evidence, and that interventions require the “concurrence” of a public health official—will also serve to ensure that restrictions on liberty are not guided by prejudice, but by science and public health expertise.

Anyone under mandatory quarantine orders must be given access to adequate food, medical supplies, and other basic necessities.

AO 2020-34(S) provides that the Municipality address the basic needs of individuals subject to mandatory isolation or quarantine orders outside their home (p6, lines 35-41). We ask that the Assembly consider how to support access to such needs for individuals under mandatory isolation or quarantine orders within their usual place of residence as well.

Thank you for the opportunity to share our feedback on AO 2020-34(S). We appreciate the Assembly’s diligence and attentiveness to the civil liberties issues invoked in the exercise of the broader emergency powers being contemplated. We remain ready as a resource to you as new issues emergence in the current pandemic.

Sincerely,

Triada Stampas
Policy Director

cc: Members of the Anchorage Assembly