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**CITY OF HOMER  
HOMER, ALASKA**

Lord/Venuti

**ORDINANCE 20-21(S)(A)**

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA AMENDING HOMER CITY CODE REPEALING **AMENDING** HOMER CITY CODE 2.08.100 TELECONFERENCE PARTICIPATION IN MEETINGS, 2.08.110, TELECONFERENCE PROCEDURES, 2.08.120 TELECONFERENCE -LIMITATIONS, AND REENACTING 2.08.100 TELECONFERENCE AND WEB-HOSTED MEETINGS **TO ALLOW FOR EXCEPTIONS IN EMERGENCY CIRCUMSTANCES AND IN NOTIFICATION OF INTENT TO TELECONFERENCE FOR GOOD CAUSE SHOWN.**

WHEREAS, Emergency Ordinance 20-17 was adopted March 23, 2020 to allow the Homer City Council to meet immediately by teleconference due to the outbreak of COVID-19; and

~~WHEREAS, Over the years Homer City Code 2.08.110-120 has become more restrictive in conditions that allow for telephonic participation; and~~

WHEREAS, Alaska Statutes 44.62.310 Government meetings public, allows for attendance and participation at meetings by members of a governmental body by teleconferencing without restrictions on the types of meetings held in this manner; and

WHEREAS, The Homer City Council has met successfully through web-based meetings during the COVID-19 pandemic; **and**

**WHEREAS, Certain circumstances may arise beyond the five day notice period and teleconference participation by a Council member or Mayor may be requested and approved for good cause by a vote of the Council.**

NOW THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code 2.08.100 Teleconference participation in meetings, 2.08.110, Teleconference procedures, and 2.08.120 Teleconference-Limitations are hereby repealed **is amended as follows:**

2.08.100 Teleconference participation in meetings.

a. This section through HCC 2.08.120 govern the telephonic **teleconference** participation of the Mayor and members of the Council at all meetings of the City Council, including all other

43 bodies that are comprised of the Mayor and members of the Council, such as, but not limited  
44 to, the Board of Adjustment and an Ethics Board.

45  
46 b. The preferred procedure for City Council meetings is that the Mayor and all Council members  
47 should be physically present at the designated time and location within the City for the  
48 meeting. However, physical presence may be waived and the Mayor and any member(s) may  
49 participate in a Council meeting by teleconference, subject to the procedures and limitations  
50 provided in this section through HCC 2.08.120.

51  
52 c. A person participating by teleconference shall, while actually on the teleconference, be  
53 deemed to be present at the meeting for all purposes. The person shall make every effort to  
54 participate in the entire meeting.

55  
56 ~~d. If the Mayor participates telephonically **by teleconference**, the Mayor may vote~~  
57 ~~telephonically to break a tie as permitted in HCC 2.08.040(h), but the Mayor Pro Tem, or the~~  
58 ~~senior Council member in the Mayor Pro Tem's absence, shall preside over and perform all~~  
59 ~~other functions of the Mayor at the meeting.~~

60  
61 e. "Teleconferencing" means ~~a means used for~~ remote participation **by telephone or web-**  
62 **based format** by an official for a meeting of the City Council which must enable the remote  
63 official, for the duration of the meeting, to clearly hear the Mayor, all Council members, the City  
64 Clerk and public testimony and to be clearly heard by the Mayor, all Council members, the City  
65 Clerk and the public in attendance. [Ord. 19-05(A) § 1, 2019; Ord. 16-58(A) § 1, 2017; Ord. 07-  
66 45(A)(S) § 1, 2007. Code 1981 § 1.24.100].

67  
68 2.08.110 Teleconference procedures.

69  
70 a. A Mayor or Council member who cannot be physically present for a regularly scheduled  
71 Council meeting shall notify the City Clerk at least five days prior to the scheduled time for the  
72 meeting of his or her request to participate in the meeting by telephonic **teleconference**  
73 means of communication.

74  
75 b. Three days prior to the scheduled time for the Council meeting, the City Clerk shall notify the  
76 Mayor and Council of the person's request to participate by teleconference.

77  
78 c. At the commencement of the Council meeting a telephonic **teleconference** connection will  
79 be established with the person or persons intending to participate telephonically **by**  
80 **teleconference. If the Council member or Mayor has requested a special exception as**  
81 **outlined in HCC 2.08.120 e. or f.,** after a telephonic **teleconference** connection is established  
82 the Mayor shall call for a vote of the Council on whether the person(s) may or may not  
83 participate by telephone **teleconference**. Prior to the vote, the Mayor or Council members may  
84 make such inquiries as necessary to make a decision. Only the Council members physically

85 present may vote on the question. If a person participates in the meeting telephonically **by**  
86 **teleconference** without a ruling from the Council, it shall be deemed to be with the approval  
87 of such participation by the Council, and all actions taken by the Council with the participation  
88 of all such persons are valid.

89  
90 ~~If telephonic participation is interrupted due to poor connectivity that hinders the active~~  
91 ~~participation of a member in the meeting the Mayor will request a brief recess to allow the~~  
92 ~~person an attempt to reestablish a connection. If the person cannot reestablish a clear~~  
93 ~~connection after a recess, the Mayor shall call for a vote of the Council on whether to terminate~~  
94 ~~telephonic participation. Prior to the vote, the Mayor or Council members may make such~~  
95 ~~inquiries as necessary to make a decision. If a majority of the Council votes to terminate~~  
96 ~~telephonic participation, the record will indicate such and the member participating~~  
97 ~~telephonically shall not be called upon to comment or vote. The Council's determination is~~  
98 ~~final and not subject to veto or appeal.~~

99  
100 d. Subsections (a) and (b) of this section do not apply to special meetings or emergency  
101 meetings of the City Council called under HCC 1.14.030 and 1.14.050. A Council member or  
102 Mayor who requests to participate in a special or emergency meeting of the City Council must  
103 notify the City Clerk before the time scheduled for the start of the meeting. The Clerk will notify  
104 the Mayor and Council no later than the commencement of the meeting. After a telephonic  
105 **teleconference** connection is established with the person or persons requesting to participate  
106 telephonically **by teleconference**, a ruling shall be made on the person's participation in the  
107 meeting as provided in subsection (c) of this section.

108  
109 **e. Subsections (a), (b), and (c) of this section do not apply to meetings held while an**  
110 **emergency disaster declaration is in effect and the nature of the disaster significantly**  
111 **impacts an Council members ability to attend an Council meeting other than by**  
112 **teleconference or other technological means.**

113  
114 **ef.** The means used for a teleconference meeting of the City Council must enable each member  
115 appearing telephonically **by teleconference** to clearly hear the Mayor, all other Council  
116 members, and public testimony at the meeting as well as be clearly heard by all other Council  
117 members and members of the public in attendance.

118  
119 **If teleconference participation is interrupted due to poor connectivity that hinders the**  
120 **active participation of a member in the meeting the Mayor will request a brief recess to**  
121 **allow the person an attempt to reestablish a connection. If the person cannot reestablish**  
122 **a clear connection after a recess, the Mayor shall call for a vote of the Council on whether**  
123 **to terminate teleconference participation. Prior to the vote, the Mayor or Council**  
124 **members may make such inquiries as necessary to make a decision. If a majority of the**  
125 **Council votes to terminate teleconference participation, the record will indicate such and**

126 **the member participating by teleconference shall not be called upon to comment or vote.**  
127 **The Council's determination is final and not subject to veto or appeal.**

128  
129 ~~fg.~~ The City Clerk shall note in the journal of the proceedings of the City Council **minutes of the**  
130 **council meeting** all members appearing telephonically **by teleconference**.

131  
132 ~~gh.~~ To the extent practicable, materials to be considered by the Council shall be made  
133 available to those attending by teleconference. [Ord. 19-05(A) § 1, 2019; Ord. 07-45(A)(S) § 2,  
134 2007. Code 1981 § 1.24.110].

135  
136 2.08.120 Teleconference – Limitations.

137  
138 a. All Council members and the Mayor should make all reasonable effort to be physically  
139 present for every meeting. Teleconference procedures may not be used as a regular means of  
140 attendance at meetings **except temporarily during events described in subparagraph h. of**  
141 **this section.**

142  
143 ~~b.~~ Participation by teleconference may be denied whenever the physical presence of the  
144 individual is considered essential to effective participation in the meeting or to the proper  
145 conduct of the business to be addressed at the meeting.

146  
147 ~~c.~~ If teleconferencing is denied the individual will be listed as absent.

148  
149 d. Each Council member and the Mayor may attend a maximum of three City Council meetings  
150 by teleconference during the 12-month period commencing November 1st each year. If a  
151 member participates in any part of a regularly scheduled meeting telephonically **by**  
152 **teleconference**, it will count towards their maximum allowable telephonic **teleconference**  
153 participations.

154  
155 e. Each Council member and the Mayor may attend additional teleconferences as a special  
156 exception if expressly approved for good cause in each instance by a vote of the Council. Good  
157 cause may include, but is not limited to, absence required for work-related travel or medical  
158 care needed for the individual or the individual's immediate family.

159  
160 **f. A Council member or the Mayor may request to participate in a meeting by**  
161 **teleconference upon notification to the City Clerk before the time scheduled for the start**  
162 **of the meeting as a special exception if expressly approved for good cause in each**  
163 **instance by a vote of the Council. Good cause may include, but is not limited to, absence**  
164 **required for work-related travel or medical care needed for the individual or the**  
165 **individual's immediate family.**

166  
167 g. No Council member or the Mayor shall attend by telephonic **teleconference** means:


- 168  
169 1. An executive session of the City Council.  
170 2. A hearing on an ethics charge under Chapter 1.18 HCC.

171  
172 **h. Subsections (b), (c), (d), (e), (f), and (g) of this section do not apply to meetings held**  
173 **while an emergency disaster declaration is in effect and the nature of the disaster**  
174 **significantly impacts an Council members ability to attend an Council meeting other than**  
175 **by teleconference or other technological means.**

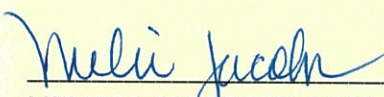
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177  
178 Section 2. This ordinance is of a permanent nature and general character and shall be  
179 included in Homer City Code.

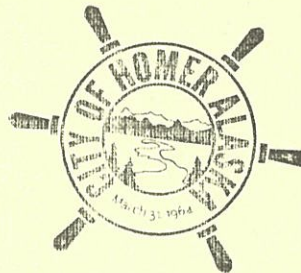
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181 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this 26 day of May, 2020.

182  
183 CITY OF HOMER

184   
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186 \_\_\_\_\_  
187 KEN CASTNER, MAYOR


188  
189  
190 ATTEST:

191  
192   
193 \_\_\_\_\_  
194 MELISSA JACOBSEN, MMC, CITY CLERK




195  
196 YES:  
197 NO:  
198 ABSTAIN:  
199 ABSENT:

200  
201 Reviewed and approved as to form.

202  
203   
204 \_\_\_\_\_  
205 Marvin Yoder, City Manager

206  
207 Date: 6/11/2020

  
\_\_\_\_\_  
Michael Gatti, City Attorney

Date: 8/16/2020