

Introduced by: Cooper  
Date: 03/17/20  
Hearing: 04/21/20  
Action: Enacted  
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH  
ORDINANCE 2020-11**

**AN ORDINANCE AMENDING KPB 22.40.010, KPB 22.40.173 AND KPB 22.40.175 TO ALLOW THE ASSEMBLY PRESIDENT TO RESCHEDULE A REGULAR ASSEMBLY MEETING AND ASSEMBLY MEMBERS TO ATTEND MORE THAN THREE ASSEMBLY MEETINGS TELEPHONICALLY WHEN NECESSARY DUE TO A DECLARED DISASTER EMERGENCY**

- WHEREAS**, the novel Coronavirus known as COVID-19 was first detected in Wuhan City, Hubei Province, China, and the virus has since been spreading from person-to-person easily and sustainably in all continents except Antarctica; and
- WHEREAS**, symptoms include fever, cough, shortness of breath, persistent pain or pressure in the chest, and other symptoms, and has resulted in numerous deaths throughout the world; and
- WHEREAS**, the World Health Organization characterized COVID-19 as a pandemic on March 11, 2020; and
- WHEREAS**, persons infected with COVID-19 may not show symptoms for a period of two to fourteen days; and
- WHEREAS**, efforts are underway nationwide to slow the spread of this virus including the cancellation of many public events and closures of facilities in which people gather together; and
- WHEREAS**, Governor Mike Dunleavy issued a Declaration of Public Health Disaster Emergency on March 11, 2020 due to the rapid spread of COVID-19; and
- WHEREAS**, on March 13, 2020 Governor Mike Dunleavy issued a mandate that public school days between March 16 and March 30, 2020 be non-student contact days in which students will not attend school and all after-school activities will be suspended; and
- WHEREAS**, on March 16, 2020, Kenai Peninsula Borough Mayor Charlie Pierce issued a Declaration of Disaster due to the imminent threat of COVID-19; and
- WHEREAS**, the Centers for Disease Control and Prevention has recommended employers and others to do all they can to slow the spread of Coronavirus including avoiding social gatherings in groups of more than 10 people and cancelling mass gatherings

to increase the physical distance between individuals to prevent the spread of the COVID-19; and

**WHEREAS,** the borough code currently places restrictions on the number of assembly meetings that assembly members may attend telephonically to three meetings but currently contains no mechanism for changing the scheduled regular assembly meetings in response to a declared disaster emergency; and

**WHEREAS,** the best interests of the borough would be served by amending the code to authorize the assembly president to reschedule regular assembly meetings and to allow for additional telephonic attendance at assembly meetings by assembly members as may be necessary due to the impacts of a declared disaster emergency;

**NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:**

**SECTION 1.** That KPB 22.40.010 is amended, as follows:

**22.40.010. Time and place—Regular—Special.**

- A. Unless otherwise approved as provided in this section, regular meetings of the assembly shall be held on the first and third Tuesday of each month at 6:00 p.m. in the assembly room of the Borough Administration Building. The assembly shall by resolution or motion establish the date and place for assembly meetings by approving a calendar for the upcoming year. The assembly shall, at a minimum, schedule at least two meetings per month for six months each year.
- B. Special meetings may be called as provided by Alaska Statutes.
- C. The assembly may by resolution or motion amend the meeting calendar during the year. The resolution or motion shall set forth the reason for the change.
- D. The assembly president may reschedule an assembly meeting when the change is necessary due to a declared emergency disaster.
- [D]E. Public notice of all assembly meetings shall be provided to at least one newspaper of general circulation in each community of the borough, if any.

**SECTION 2.** That KPB 22.40.173 is amended, as follows:

**22.40.173. Teleconference—Procedures.**

- A. An assembly member who cannot be physically present for a regularly scheduled assembly meeting shall notify the borough clerk at least five days

prior to the scheduled time for the meeting of his or her request to participate in the meeting by telephonic means of communication.

- B. At least three days prior to the scheduled time for the assembly meeting, the borough clerk shall notify the assembly of the person's request to participate by teleconference.
- C. At the commencement of the assembly meeting a telephonic connection will be established with the person or persons intending to participate telephonically. If the assembly member has attended at least three regular assembly meetings by telephone since the most recent November 1, after a telephonic connection is established the assembly president shall call for a vote of the assembly on whether the person(s) may or may not participate by telephone. Prior to the vote, the assembly members may make such inquiries as necessary to make a decision. Only the assembly members physically present may vote on the question. The assembly's determination is final and not subject to appeal. If a person participates in the meeting telephonically without a ruling from the assembly, it shall be deemed to be with the approval of such participation by the assembly, and all actions taken by the assembly with the participation of all such persons are valid.
- D. Subsections A, B and C of this section do not apply to special meetings of the assembly. An assembly member who requests to participate telephonically in a special meeting of the assembly must notify the borough clerk before the time scheduled for the start of the meeting. The borough clerk will notify the assembly no later than the commencement of the meeting. After a telephonic connection is established the member shall be allowed to participate telephonically.
- E. Subsections A, B and C of this section also do not apply to meetings held while an emergency disaster declaration is in effect and the nature of the disaster significantly impacts an assembly member's ability to attend an assembly meeting other than by teleconference or other technological means.
- F. The means used for a teleconference meeting of the assembly must enable each member appearing telephonically to clearly hear all other assembly members, the mayor, the borough clerk, the attorney, and public testimony at the meeting as well as be clearly heard by all other assembly members, the mayor, the borough clerk, the attorney, and members of the public in attendance.
- G. The borough clerk shall note in the minutes of the assembly meeting all members appearing telephonically.

- H. To the extent practicable, materials to be considered by the assembly shall be made available to those members attending by teleconference.


**SECTION 3.** KPB 22.40.175 is hereby amended to read as follows:

**22.40.175. Teleconference—Limitations.**


- A. All assembly members should make all reasonable effort to be physically present for every meeting. Teleconference procedures may not be used as a regular means of attendance at meetings except temporarily during events described in subparagraph E of this section.
- B. Participation by teleconference may be denied whenever the physical presence of the individual is considered essential to effective participation in the meeting or to the proper conduct of the business to be addressed at the meeting and the member is not prevented by attending due to circumstances beyond their control.
- C. If teleconferencing is denied the assembly member will be listed as absent.
- D. Each assembly member may attend a maximum of three regular assembly meetings by teleconference during the 12-month period commencing November 1st each year.
- E. Subsections B, C, D, F and G of this section do not apply to meetings held while an emergency disaster declaration is in effect and the nature of the disaster significantly impacts an assembly member’s ability to attend an assembly meeting other than by teleconference or other technological means.
- F. Each assembly member may attend additional teleconferences as a special exception if expressly approved for good cause in each instance by a vote of the assembly. Good cause may include, but is not limited to, absence required for extended medical care needed for the individual or a member of the individual’s immediate family.
- G. No assembly member shall attend an executive session by telephonic means.

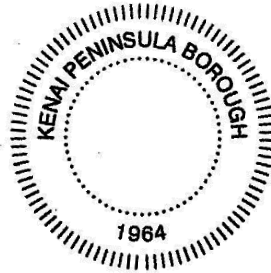
**SECTION 4.** That upon its enactment this ordinance shall take effect retroactively on March 17, 2020.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 21ST DAY OF APRIL, 2020.**

  
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Kelly Cooper, Assembly President

ATTEST:

  
\_\_\_\_\_  
Johni Blankenship, MMC, Borough Clerk



Yes: Bjorkman, Blakeley, Carpenter, Cox, Dunne, Hibbert, Johnson, Smalley, Cooper  
No: None  
Absent: None