



Introduced by:	Fannie Suvlu, Mayor
Date:	11/30/17
Public Hearing:	12/21/2017
Action:	PASSED
Vote:	5 to 0

ORDINANCE #15-2017

AN ORDINANCE CONFIRMING THAT THERE IS NO NEWSPAPER OF GENERAL CIRCULATION IN THE CITY OF UTQIAGVIK AND REVISING PUBLIC NOTICE PROCEDURES THROUGHOUT THE UTQIAGVIK CODE OF ORDINANCES

WHEREAS AS 29.25.020(b)(3) and Section 2.12.090.A.3 of the Utqiagvik Code of Ordinances (“Code”) require that at least five days before a public hearing on an ordinance, a summary of the ordinance and the time and place for the public hearing shall be “published;” and

WHEREAS AS 29.71.800(18) defines “published” to mean “appearing at least once in a newspaper of general circulation distributed in the municipality, or, if there is no newspaper of general circulation distributed in the municipality, posted in three public places for at least five days;” and

WHEREAS Section BMC 2.08.054 of the Code provides for public notice of all city council meetings by posting the date, time, and place of the meeting in at least three public places but does not require publishing in a newspaper of general circulation; and

WHEREAS in accordance with Section BMC 2.08.054 of the Code, for at least the past twenty three years, the City of Utqiagvik (“City”) has posted notice of the date, time and place of city council meetings but has not published notice of such meetings in a newspaper; and

WHEREAS in *City of St. Mary’s v. St. Mary’s Native Corporation*, 9 P.3d 1002 (Alaska 2000), the Supreme Court of the State of Alaska (“Court”) declared that a “newspaper of general circulation” is one that “contains news of general interest to the community and reaches a diverse readership,” and that publication in a newspaper of general circulation is only mandatory “when such a newspaper exists in a community;”

WHEREAS the Court further declared in *City of St. Mary's v. St. Mary's Native Corporation* that it would defer to the judgment of the local government as to whether a newspaper of general circulation exists in a municipality because AS 29.71.800(18) contemplates that there may be no newspaper of general circulation distributed in some municipalities; and

WHEREAS, in accordance with the Court's determination in *City of St. Mary's v. St. Mary's Native Corporation* that it will defer to the judgment of the local government as to whether a newspaper of general circulation exists in a municipality, the City of Utqiagvik City Council ("City Council") wishes to formally declare and confirm that no newspaper of general circulation exists in the City; and

WHEREAS the City Council of Utqiagvik desires to amend the Code to revise and modernize the City's public notice procedures.

BE IT ORDAINED by the City Council of Utqiagvik, Alaska, that:

SECTION 1. Classification. This ordinance is permanent and general in nature and shall be incorporated into the City of Utqiagvik Code of Ordinances ("Code").

SECTION 2. Adoption of Chapter 1.34 (No Newspaper of General Circulation). Title 1 of the Code is amended by adding a new chapter 1.34 to read as follows:

Chapter 1.34. No Newspaper of General Circulation

Section 1.34.010 Declaration. The City Council hereby declares and confirms that no newspaper of general circulation is distributed in the City.

SECTION 3. Amendment to Section 1.04.010 (Definitions). Section 1.04.010 of the Code is amended by adding the following definition:

"Publish" means (1) to post the date, time, and place of the meeting or other event in at least three public places within the City and at City Hall, and (2) to provide a public service announcement regarding the date, time, and place of the meeting or other event to the local public radio station for broadcast to the community; in addition, the City may publish by posting on the City's website, the City's Facebook page, or other City-sponsored social media, or through other print or broadcast media sources.

SECTION 4. Amendment to Section 2.08.050 (Special Meetings). Section 2.08.050 of the Code is amended as follows (new language underlined, deleted language stricken out):

The mayor or any three councilmembers may call special meetings of the council. The city clerk shall publish notice of a special meeting in accordance with Section 2.08.054, and if a hearing will be held on an ordinance (other than an emergency ordinance) at the special meeting, also in accordance with Section 2.12.090.A.3. Additionally, the city clerk shall give the notice of such meeting to each councilmember or cause it to be left at a conspicuous place at his or her place of residence at least twenty-four hours before the time of holding such special meeting.

SECTION 5. Amendment to Section 2.08.052 (Workshops). Section 2.08.052 of the Code is amended as follows (new language underlined, deleted language stricken out):

The council may schedule and hold workshops at which city business is discussed. The city clerk shall publish notice of a workshop and councilmembers shall be provided notice of a workshop in accordance with Section 2.08.050 of the Code. Except for discussion held in executive session pursuant to Section 2.12.030, all workshops shall be open to the public.

SECTION 6. Amendment to Section 2.08.054 (Notice of Meetings). Section 2.08.054 of the Code is amended as follows (new language underlined, deleted language stricken out):

Reasonable notice shall be given to the public of all regular and special council meetings and workshops. Public notice of a meeting or workshop is reasonable if a statement containing the date, time, and place of the meeting, is published in at least three public places and at City Hall not less than five days before the date of the meeting.

SECTION 7. Amendment to Section 2.12.100 (Emergency Ordinances). Section 2.12.100 of the Code is amended as follows (new language underlined):

- A. To meet a public emergency the council may adopt emergency ordinances that become effective upon the same date as their introduction. Every emergency ordinance must contain a finding by the council that an emergency exists and a statement of the facts upon which that finding is based. The affirmative vote of all members present or the affirmative vote of three-fourths of the total membership,

whichever is less, is required for adoption. Copies of the ordinance must be printed and made available to the public.

- B. Emergency ordinances are effective for a period of sixty days.
- C. Notwithstanding 2.08.054 and 2.12.090.A.3, reasonable public notice of the council's consideration of an emergency ordinance is whatever notice is practicable under the circumstances.

SECTION 8. Amendment to Section 2.12.110 (Resolutions). Section 2.12.100 of the Code is amended as follows (new language underlined):

- A. Every resolution shall be introduced in writing and shall be orally read before any vote for passage thereof is taken.
- B. On any vote for passage of a resolution, all persons interested who appear shall have reasonable opportunity to be heard. After such hearing, the council may pass such resolution with or without amendments. First reading of any resolution shall be final and no further passage shall be required. Every resolution, unless it specifies a later date, shall become effective upon final passage.
- C. Oral reading of a resolution may be waived by unanimous consent of the council if copies of the resolutions are available for all members of the public present.

SECTION 9. Amendment to Section 2.20.030.B (Duties of City Clerk). Section 2.20.030.B of the Code is amended as follows (new language underlined, deleted language stricken out):

- B. The city clerk shall:
 - 1. Publish notice of the date, time and place of council meetings;
 - 2. Attend council meetings and keep the journal;
 - 3. Prepare agendas and agenda packets, as directed and approved by the mayor according to Sections 2.12.040 and 2.12.080;
 - 4. Act as the parliamentary advisor to the governing body;

5. Maintain and make available for public inspection an indexed file including the city ordinances, resolutions, rules, regulations and codes; provide for codification of ordinances, and authenticate or certify records as necessary;
6. Maintain an indexed file system of official burial, business license, resolution, ordinance, and all other records of the city, provide for codification of ordinances and authenticate or certify city records as necessary;
7. Attest deeds and other documents;
8. Record and certify all actions of the council;
9. Take oaths, affirmations and acknowledgements as necessary;
10. Be custodian of the city seal and the official burial, business license, resolution, ordinance, and all other records of the city, including managing city records and developing retention schedules and procedures for inventory, storage and destruction of records as necessary;
11. Give to the proper officials ample notice of the expiration or termination of any term of office and, when necessary, the conditions or requirements of all bonds, franchises, contracts and agreements;
12. Administer all city elections; in consultation with the city attorney, assure that the municipality complies with 42 U.S.C. 1971--1974 (Voting Rights Act of 1965, as amended);
13. Perform other duties required by law or the council or the mayor.

SECTION 10. Amendment to Section 2.28.100 (Recreation Commission Meetings --Notice). Section 2.28.100 of the Code is repealed and re-enacted as follows:

The city clerk shall publish notice of the date, time and place of recreation commission meetings at least five days prior to a meeting by the city clerk.

SECTION 11. Amendment to Section 2.29.020.H (Cultural Center Commission Meetings --Notice). Section 2.29.020.H of the Code is repealed and re-enacted as follows:

The city clerk shall publish notice of the date, time and place of cultural center commission meetings at least five days prior to a meeting by the city clerk.

SECTION 12. Amendment to Section 2.30.100 (Community Services Department Board Meetings --Notice). Section 2.30.100 of the Code is repealed and re-enacted as follows:

The city clerk shall publish notice of the date, time and place of community service department board meetings at least five days prior to a meeting by the city clerk.

SECTION 13. Amendment to Section 2.36.130 (Notice of Elections). Section 2.36.130 of the Code is amended as follows (new language underlined, deleted language stricken out):

- A. At least twenty days before every city election, the city clerk shall a notice of such election. The notice shall include the following: the date of the election, time during which the polling places will be open, the locations of the polling places, the boundaries of the precincts, offices to which candidates are to be elected (if any), and the ballot titles and propositions of any initiatives, referendums, ballot questions, local option questions, or other proposals which are to be submitted to the voters at the election (if any). Failure to publish such notice of an election shall not affect the validity of the election or of the vote for any candidate or on any proposal, but if caused by the city clerk shall constitute failure to perform official duties.
- B. In addition to the notice provided for in subsection (A) of this section, the city clerk shall publish in full every ordinance or resolution initiated or referred in accordance with section 2.36.270 at least twenty days before the election.

SECTION 14. Amendment to Section 4.04.040 (Public Hearing on the Budget Estimate). Section 4.04.040 of the Code is amended as follows (new language underlined, deleted language stricken out):

The council shall fix the time and place for a public hearing on the budget estimate. The city clerk shall publish notice of the hearing,

together with a summary of the budget estimate, not more than ten nor less than five days prior to the time fixed for the hearing. All interested persons shall be given a reasonable opportunity to be heard at the hearing on the budget estimate.

SECTION 15. Amendment to Section 4.04.060 (Public Hearing on Budget Amendments). Section 4.04.060 of the Code is amended as follows (new language underlined, deleted language stricken out):

The budget may be amended by the council at any time after adoption provided that amendment is made via ordinance and in accordance with the notice procedures provided for an ordinance in Sections 2.08.054 and 2.12.090.A.3.

SECTION 16. Amendment to Section 4.16.030 (Bid Invitation --Notice). Section 4.16.030 of the Code is amended as follows (deleted language stricken out):

- A. When the estimated cost of supplies or contractual services or estimated value of a sale exceeds twenty-five thousand dollars, notice inviting bids shall be published at least five days preceding the last day set for the receipt of proposals or bids.
- B. When the estimated cost of supplies or contractual services or the estimated value of a sale does not exceed twenty-five thousand dollars, no notice shall be required.
- C. The mayor may also solicit bids from all responsible prospective suppliers who have indicated an interest in bidding on city contracts.
- D. The mayor shall also advertise all pending purchases or sales exceeding five thousand dollars by a notice posted on the public bulletin board in the City Hall.

SECTION 17. Amendment to Section 13.04.160.C (Notice of Negotiated Sale or Exchange). Section 13.04.160C of the Code is amended as follows (new language underlined, deleted language stricken out):

- C. The ordinance of sale or of exchange shall refer to assessments or independent appraisals of the real estate to be exchanged, which shall be on file with the city clerk for public inspection. If the sale or exchange is (1) with a nongovernmental entity, (2) the value of the property

obtained is less than the property given up in the exchange and (3) such deficit is more than twenty-five thousand dollars, notice of the ordinance shall be published by the city clerk in accordance with sections 2.08.054 and 2.12.090.A.3.

SECTION 18. Effective Date. This ordinance shall become effective upon adoption.

ENACTED THIS 21st DAY OF DECEMBER, 2017, by a vote of 5 in favor and 0 opposed.



Fannie Suvlu, Mayor

ATTEST:



Loyla T. Leavitt, City Clerk