

**FAIRBANKS NORTH STAR BOROUGH
ANIMAL CONTROL COMMISSION
RESOLUTION NO. 2018- 01**

A RESOLUTION TO PROMULGATE RULES PROVIDING FOR TELEPHONIC TESTIMONY
AND TESTIMONY BY AFFIDAVIT
IN QUASI-JUDICIAL ANIMAL CONTROL COMMISSION HEARINGS

WHEREAS, the Fairbanks North Star Borough's (FNSB) Assembly passed Ordinance No. 2015-74 amending FNSB code applicable to the boards and commissions holding quasi-judicial hearings which would include the Animal Control Commission;

WHEREAS, the changes require the Animal Control Commission to promulgate rules allowing for various forms of participation in quasi-judicial hearings;

NOW, THEREFORE, BE IT RESOLVED that the Animal Control Commission adopts the following rules:

RULE 1. INTERESTED PERSONS DETERMINATION. A person with a significant property interest may request an interested person determination for a quasi-judicial matter before the Animal Control Commission. A person may seek an interested person determination at the hearing for the quasi-judicial matter or a person may apply for a determination in advance of the hearing. A pre-hearing application for interested person determination shall be on a form prescribed by the Division of Animal Control and received by the Clerk of the Animal Control Commission at the Department of Community Planning no less than five working days before the scheduled quasi-judicial hearing at which the person wishes to testify and shall include a completed pre-hearing determination form demonstrating that the applicant

- a. Possesses a specific property interest;
- b. Which may be significantly affected by the proposed action;
and
- c. Which may be affected in a way different than that of the general public.

The Chair of the Animal Control Commission or the Chair's designee shall make the interested person determination with reasonable promptness and the Clerk of

39 the Animal Control Commission shall notify the applicant of the decision with
40 reasonable promptness thereafter.

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42 **RULE 2. TELEPHONIC TESTIMONY.** A party, witness, or interested person wishing
43 to testify telephonically at a quasi-judicial matter may apply for telephonic
44 testimony on a form prescribed by the Division of Animal Control and by
45 demonstrating good cause for the request. The request must be received
46 by the Clerk of the Animal Control Commission at the Community Planning
47 Department before the close of business (5 p.m.) no less than 5 working
48 days before the scheduled quasi-judicial hearing at which the applicant
49 wishes to testify. Upon receipt of an application for telephonic testimony
50 the Clerk of the Animal Control Commission shall promptly notify the parties
51 (to include only the Owner and Staff) and any interested person who has
52 received a determination granting that interested person the level of
53 standing equivalent to the Owner and Staff, who may assert that the
54 request for telephonic participation will result in substantial prejudice by
55 submitting the assertion as well as the basis for the assertion to the Clerk
56 of the Animal Control Commission at the Community Planning Department
57 no later than 5 p.m. on the business day following notification of the
58 application. The Chair or the Chair's designee may deny the request for
59 telephonic testimony if good cause is not shown or if substantial prejudice
60 to another party will result from the telephonic participation. The Chair or
61 the Chair's designee shall make the telephonic testimony determination with
62 reasonable promptness and the Clerk of the Animal Control Commission
63 shall notify the person requesting telephonic testimony of the decision with
64 reasonable promptness. If the telephonic testimony is allowed, the person
65 applying for telephonic testimony is responsible for making proper
66 arrangements to accomplish the telephonic testimony. If telephonic
67 connection cannot be made, is lost, or is unintelligible, the meeting will
68 continue as scheduled without the telephonic testimony.

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70 **RULE 3. TESTIMONY BY AFFIDAVIT.** A party, witness, or interested person wishing
71 to testify by affidavit at a quasi-judicial matter may apply for testimony by
72 affidavit on a form prescribed by the Division of Animal Control. The person
73 must submit the affidavit containing the proposed testimony with the
74 application to testify by affidavit at least five working days before the
75 scheduled quasi-judicial matter at which the person wishes to testify. Upon
76 receipt of the request:

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1. The Clerk of the Animal Control Commission shall promptly distribute the affidavit to the parties (to include only the Owner and Staff) and any interested person who has received a determination granting that interested person the level of standing equivalent to the Owner and Staff;
2. The parties shall submit any relevant cross-examination questions to the Clerk of the Animal Control Commission at the Department of Community Planning no less than three working days prior to the quasi-judicial matter at which the affiant wishes to testify;
3. The Chair or the Chair's designee shall with reasonable promptness make a determination whether the submitted questions are reasonably necessary to explore any matters tending to contradict, modify, or explain the testimony;
 - a. If the questions are reasonably necessary, the affidavit may be excluded in whole or in part and the affiant may be required to testify in person or by telephone. Alternatively, those questions that are deemed reasonably necessary may be submitted to the affiant, who shall answer the questions in a second affidavit, which shall be submitted to the Clerk of the Animal Control Commission at the Department of Community Planning no less than two working days prior to the quasi-judicial matter at which the affiant wishes to testify. If the affiant fails to answer the questions in a second affidavit, the original affidavit may be excluded in whole or in part;
 - b. If the questions are not reasonably necessary, the affidavit shall be accepted for Animal Control Commission consideration;
4. The Clerk of the Animal Control Commission shall promptly notify the parties of all determinations relating to reasonable necessity and rejection or acceptance of all or portions of an affidavit.

RULE 4. CONCURRENT APPLICATIONS. A party, witness, or interested person wishing to testify either telephonically or by affidavit may submit concurrent

115 applications complying with the respective requirements and procedures. If
116 the party, witness or interested person has a preference to testify
117 telephonically or by affidavit, that preference must be indicated on the
118 application. The Chair or the Chair's designee will review the preferred
119 application first and only if that application is denied will the Chair or the
120 Chair's designee review the second application. If no preference is indicated,
121 the Chair or the Chair's designee will review the application to testify
122 telephonically first.
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124 **RULE 5. HOLIDAYS.** With respect to Rules 1 through 4, any deadline that falls on a
125 Borough-observed holiday will thereby be due the following business day. If
126 a deadline falls on a holiday and the foregoing rule is not practicable under
127 the particular circumstances, the Chair or the Chair's designee may modify the
128 deadline in writing issued reasonably in advance of the deadline.
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130 THIS 20th DAY OF DECEMBER, 2018.
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Scott Chesney, Chair
FNSB Animal Control Commission