

**BEFORE THE ADMINISTRATIVE HEARING OFFICER
FOR THE MUNICIPALITY OF ANCHORAGE**

MUNICIPALITY OF ANCHORAGE,)
)
Plaintiff,)
)
vs.)
)
O'MALLEY ICE AND SPORTS CENTER, LLC)
Defendants.)
)

Administrative Hearing No.: _____

Code Enforcement Case No.: LUE119202

COMPLAINT OF MUNICIPAL CODE VIOLATION

Name and Address of the persons responsible for the violation: O'Malley Ice and Sports Center, LLC, Stephen Agni, Registered Agent, P.O. Box 244661, Anchorage, Alaska 99524

Street Address of violation: 11111 O'Malley Center Drive, Anchorage, Alaska 99515

Legal Description of violation: South Center Block 2, Lot 5a

Zoning of Property & Section: B-3, General Business District (AMC 21.04.030.D)

Date of violation: February 27, 2021, (one (1) day)

- 1) **Specific violations: AMC 15.20.020.A:** No person shall allow, maintain or permit a public nuisance to exist or allow, maintain or permit recurrence of a public nuisance. Such existence, allowance, maintenance, permitting or recurrence of a public nuisance is a violation of this chapter. **Violation of Emergency Order (EO) 18, Paragraph 6 by Mayor Austin Quinn-Davidson. "Easing Up Order." "Organized Sports."** Organized sports may conduct competitions with teams from within the Municipality, but are closed to indoor competition between teams from outside of the Municipality. Additional requirements for organized sports are provided in Attachment E.

On February 26, 2021, Municipal Code Enforcement Officer Cherie Easley saw 10 adults playing hockey in one rink. None of them were wearing face masks or

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coverings. She saw 31 people in a different hockey rink. Four kids were not wearing face masks or coverings. Officer Easley spoke with a staff member about some people not wearing face masks or coverings and more than 15 people on a playing surface.

On February 27, 2021, Officer Easley returned. She saw 34 people in one hockey rink. Four kids and one adult were not wearing face masks or coverings. Thirty people were in another rink. None of them were wearing face masks or coverings.

Relevant Code Provisions:

- 2) **Anchorage Municipal Code 3.80.060.H:** Imposition of orders and regulations during period of emergency: Issue such other orders of regulations immediately necessary for the protection of life and property
- 3) **Anchorage Municipal Code 15.05.070.A** Emergency Orders: When the director finds after investigation that a person is causing, engaging in or maintaining a condition or activity which in the judgement of the director presents an imminent or present danger to the health or welfare of the people of the Municipality, or would result in or be likely to result in irreversible or irreparable damage to the natural resources or environment, and it appears to be prejudicial to the interests of the people of the Municipality to delay action until an opportunity for a hearing can be provided, the director may without prior hearing order that person by notice to discontinue, abate or alleviate such condition or activity. The proscribed condition or activity shall be immediately discontinued, abated or alleviated.
- 4) **Anchorage Municipal Code 15.20.020.A: Public nuisances prohibited; enumeration.** No person shall allow, maintain, or permit a public nuisance to exist or allow, maintain or permit recurrence of a public nuisance. Such existence, allowance, maintenance, permitting or recurrence of a public nuisance is a violation of this chapter.

Relief request:

1. Civil penalty in the amount of \$300.00 per violation, per day for one (1) day. Aggregate penalty for the amount of \$300.00. Account 192020-101000-407050.
2. A compliance order under AMC 14.50.010.A directing defendant to: immediately require all patrons and employees to wear masks and abide by the gathering limitations in accordance with EO 18 paragraph 6 and/or any subsequent applicable EO, **or be subject to** applicable civil penalties set forth in AMC Title 14. (Pre-hearing costs and costs of abating nuisances may also be sought.)

BY MY SIGNATURE BELOW I CERTIFY THAT THIS COMPLAINT WAS SERVED:

- A) In person on date of issuance.
- B) By certified mail, restricted delivery, to the last known address of
- C) By affixing a copy of this complaint to the property which is the subject of the violation: _____.
- D) By delivery to the authorized representative of Defendant, _____
_____ at _____.

Officer Name Printed

Signature


Date

Proceeding initiated by Code Enforcement

Officer: Bradley J. Larson

Phone No.: (907)343-7578

I, Bradley J. Larson, state that I have read the above complaint and that the statements and attachments are true and correct to the best of my knowledge and belief.



Signature

3/5/2021

Date

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Notice of Rights

If you do not dispute the claim in this Complaint please correct the violation(s) as requested above and submit check or money order payable to the Municipality of Anchorage for the civil penalty amount indicated above and mail to: Administrative Hearing Office, PO Box 196650, Anchorage, AK 99519-6650 or deliver in person to: City Hall, 632 W. 6th Avenue, Suite 740 with a copy of the Complaint.

If you wish to contest the allegations in the Complaint, please complete the request for hearing form below **within 15 days** of receipt of Complaint and mail to: Administrative Hearing Office, PO Box 196650, Anchorage, AK 99519-6650 or deliver in person to: City Hall, 632 W. 6th Avenue, Suite 740 with a copy of the Complaint. Phone: (907) 343-4535, Facsimile: (907) 343-4541. A brief description of the rights and procedures before the Administrative Hearing Officer is included with this Complaint. More complete information concerning guidelines and procedures for the administrative hearing process are available from the Administrative Hearings Office.

You are hereby notified that the relief request above will be granted and decision entered for the relief requested unless you file an Application for Administrative Hearing within FIFTEEN (15) DAYS after you receive this Complaint. In addition, be advised that a fine of \$250.00 per day may be assessed for noncompliance of an order issued by the Administrative Hearings Officer. If not paid in full within thirty (30) days from the date of this final order, a one-time late payment fee of \$25.00 will be assessed pursuant to AMC 14.50.040(E). Interest on fines and assessments not paid within thirty (30) days of the decision shall accrue at the rate of eight percent (8%) per year pursuant to AMC 14.50.040(D).

The notice of hearing date, time and place, and all decisions will be served by mail. If you request a hearing but fail to appear at the time and place set for the hearing, your failure to appear may result in a Default Order being entered against you. A default may not be entered if the facts alleged in this Complaint fail to support the violation claimed to have occurred

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IMPORTANT: READ THE FOLLOWING NOTICE CAREFULLY

Notice of Rights and Procedures
Before the Municipal Administrative Hearings Officer

1. The Administrative Hearings Officer is an employee of the Municipality of Anchorage appointed by the Mayor and confirmed by the Assembly pursuant to the provisions of Title 14 of the Anchorage Municipal Code. The Administrative Hearings Officer is empowered to determine whether violations of the Municipal Code have occurred and, if so, to order appropriate remedial action to correct the violation and/or impose civil penalties.
2. The Administrative Hearings procedure is a quasi-judicial proceeding although generally less formal and more flexible than court proceedings. All testimony is under oath or affirmation. You will have the right to cross examine witnesses and you have the right to be represented by an attorney at your own expense and choosing. The burden of proof and of going forward with the evidence will usually be on the Municipality.
3. A request for a hearing must contain:
 - a) Your full name and address;
 - b) The name and address of your attorney should you choose to hire an attorney;
 - c) A statement that you admit, deny or do not have, and are unable to obtain, sufficient information to admit or deny the allegations in the Complaint. Failure to respond to an allegation shall be treated as an admission; and
 - d) A statement of your defense or basis for denying the facts alleged in this Complaint and the facts supporting your defense.
4. The procedure used at the hearing is set forth generally in AMC 14.30 and under control of the Hearings Officer. You will be given an opportunity to present witnesses and evidence on your own behalf, and to cross examine the Municipality's witnesses. Prior to or in the course of the hearing, the Hearings Officer may encourage an off-the-record discussion between the parties for the purposes of defining or limiting the issues and/or exploring the possibilities of a stipulated settlement.
5. A recording will be made of all hearings. A copy of such record will be available to you upon request and receipt of duplication fees.
6. Irrelevant, immaterial, or unduly repetitious evidence may be excluded. You are expected to have all relevant evidence available at the time set for hearing. If you have documents or photos you wish to be in evidence you must provide a copy for the opposing party as well as a copy for the Administrative Hearing Officer. Hearsay evidence may be excluded at the discretion of the Hearings Officer.
7. An attorney will not normally represent the Municipality in hearings, although the Municipality may be represented by counsel if it so desires. You may be represented by an attorney at your own expense and choosing in these proceedings if you wish.
8. If you are not represented by an attorney, you may, during the course of the proceedings, request a recess to obtain an attorney if you determine that representation by an attorney is necessary to protect your rights. Such request is, however, addressed to the sound discretion of the Hearings Officer.
9. If you require accommodations to attend or participate in the hearing please advise the Hearing Office at least three business days prior so that arrangements can be made. Failure to do so may cause delays in the hearing process.
10. If you are aggrieved by any final order of the Hearings Officer, you may appeal such order to the Superior Court of the State of Alaska within thirty (30) days of effective date of the order.



**MUNICIPALITY OF ANCHORAGE
 ADMINISTRATIVE HEARING OFFICE
 City Hall, 632 West 6th Avenue, Suite 740
 Anchorage, Alaska 99501
 (907) 343-4535; Facsimile (907) 343-4541**

REQUEST FOR HEARING

LAND USE, RIGHT-OF-WAY AND ON-SITE SVS.

**You must file this request for hearing within fifteen (15) days of the date of service of the Complaint.
*Please type or print clearly.***

Land Use Case #: _____ **OR** Right-of-Way Case #: _____

Your Name(s): _____

Mailing Address: _____

City: _____ Zip Code: _____

Home Phone: _____ Cell Phone: _____ Work Phone: _____

State why you are requesting a hearing. If more space is needed, attach additional sheets. At the hearing, you may present photographs, diagrams, documents and other relevant evidence. You may call witnesses. If a witness is unable to attend, you may present his/her notarized sworn statement.

STATEMENT OF RIGHTS

I understand that I am entitled to attend the hearing and submit evidence at the hearing. I understand that I may present witnesses, cross-examine witnesses called by Land Use or Right-of-Way, and may engage the services of an attorney to represent me; I may also subpoena witnesses. If I do not attend for any reason, I waive the right to present evidence in my defense at the hearing. I understand that if for any reason I do not attend, a decision may be rendered against me by default. I understand that the notice of the hearing date, time and place, and all decisions will be served by mail.

I declare that all information provided above is true, accurate and complete. In the absence of a notary public, I personally certify under penalty of perjury, that the foregoing statements are true.

Signature

Date

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