

ORDINANCE #93-07

AN ORDINANCE OF THE CITY COUNCIL OF BETHEL, ALASKA, REPEALING ORDINANCE NOS. 54, 32 AND 79 AND THE CORRESPONDING TITLE 10.04, 10.08 AND 10.12 OF THE BETHEL MUNICIPAL CODE AND ESTABLISHING A NEW TITLE 10.02, 10.04, 10.06 AND 10.07 ENTITLED CITY OF BETHEL VEHICLE AND TRAFFIC ORDINANCE

BE IT ENACTED BY THE CITY COUNCIL OF BETHEL, ALASKA, AS FOLLOWS:

Section 1: Ordinance Nos. 54, 32 and 79 and the corresponding Title 10, Chapters 4, 8 and 12, of the Bethel Municipal Code are repealed.

Section 2: This ordinance shall not be construed as abating any action now pending under, or by virtue of, prior existing laws or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, or as waiving any right of the City under any section or provision existing at the time this ordinance is adopted, or as vacating or annulling any right obtained by any person, firm, or corporation, by lawful action of the City except as shall be expressly provided for in this title.

Section 3: If any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which this judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this title or application thereof to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of this ordinance even without such part, provision, or application.

Section 4. The City of Bethel Vehicle and Traffic Ordinance, as enacted by this ordinance, shall take effect on the date this ordinance is adopted.

Section 5: Ordinance #93-07 establishing a new Title 10.02, Title 10.04, Title 10.06 and Title 10.07 of the Bethel Municipal Code of Ordinances entitled City of Bethel Vehicle and Traffic Ordinance in the form attached hereto is hereby adopted.

PASSED AND APPROVED THIS 27th DAY OF April, 1993.

INTRODUCED: April 13, 1993
PUBLIC HEARING: April 27, 1993

James H. Feaster III
James H. Feaster III, Mayor

ATTEST:

Jane Elam
Jane Elam, City Clerk

HICKS, BOYD, CHANDLER & FALCONER

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March 18, 1993

Ms. Nancy Gross
Interim City Manager
City of Bethel
P. O. Box 388
Bethel, AK 99559

RE: Title 10 Revisions

Dear Nancy:

I have enclosed a proposed draft of the revisions to Title 10 of the Bethel Municipal Code ("Code"). The revisions of Title 10 were drafted with two goals in mind. First, the revisions address the concerns raised by Magistrate McMahon that the existing Title 10 is vague and unenforceable. Second, the revisions provide a mechanism whereby the City can generate fine revenue when an officer cites under Title 10 instead of under state regulation. Instead of reinventing the wheel, we incorporated into Title 10 relevant sections and subsections of the rules of the road from Chapter 2, Title 13, of the Alaska Administrative Code, and the vehicle equipment regulations from Chapter 4, Title 13, of the Alaska Administrative Code.

The draft would repeal Sections 10.04, 10.08 and 10.12 of the existing Code since the conduct proscribed by these sections is included in the proposed draft. The existing Chapter 10.04 of the Code covers both rules of the road and required vehicle equipment. In an effort to more closely mirror Title 13 of the Alaska Administrative Code, the draft follows the Administrative Code format by covering rules of the road in the proposed Chapter 10.02 and vehicle equipment in the proposed Chapter 10.04.

The existing Chapter 10.08 is repealed since Section 10.04.230 deals with the same subject. Subsections A and B of draft section 10.04.230 prohibit the operation of a vehicle with a metal tire or the operation of a vehicle having other than rubber projecting beyond the tread of the traction surface of the tire. Exceptions are included for tire chains when needed for safety and studded tires. These subsections prohibit the operation of tracked vehicles on roadways unless rubber blocks are inserted between the tracks. In addition, subsection D of 10.02.530 makes it illegal to

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operate a vehicle on the road if it is likely to damage the surface or create a hazard to other vehicles or pedestrians. These two provisions prohibit the activity covered by the existing Chapter 10.08.

The existing Chapter 10.12 of the Code deals with pedestrians creating a hazard to the motoring public. Pedestrian rights and duties are set forth in Sections 10.02.155 through 10.02.195 of the draft. Section 10.02.175.C adopts subsection (d) of 13 A.A.C. 02.175, which prohibits a pedestrian from creating a risk to him- or herself or interfering with the normal traffic flow.

The proposed draft includes Sections 10.02.430 through 10.02.455, which are derived from the corresponding sections of Title 13 of the Alaska Administrative Code, and deal with special rules for the operation of snowmobiles and other off-highway vehicles. These sections were not included in the existing Chapter 10.04. These sections were included to make Title 10 consistent with state law. The Alaska Administrative Code governs the operation of such vehicles within the state. Even without these sections being enacted by the City, Bethel police officers could issue citations for violations of these sections of Title 13, Chapter 2, of the Alaska Administrative Code.

Chapter 10.04 of the draft includes sections that were not included in the existing Chapter 10.04 of the Code. Sections 10.04.320 through 10.04.355 cover the equipment required on motorcycles, motor-driven cycles and bicycles. Sections 10.04.400 through 10.04.420 deal with the equipment required on snowmobiles and off-highway vehicles. These sections were included to maintain consistency between the Alaska Administrative Code and the Bethel Vehicle and Traffic Code.

The draft includes a new Chapter 10.06, which incorporates sections previously set forth under Chapter 6 of Chapter 10.04.010 of the Code. These sections deal with vehicle inspections.

The proposed draft deletes references to Chapter 8, Title 13, of the Alaska Administrative Code. Chapter 8 of the existing Chapter 10.04 included the safety responsibility sections found in Article 2 of Chapter 8 of Title 13 of the Alaska Administrative Code. These sections relate to insurance requirements of individuals involved in a traffic accidents resulting in death, injury or property damage in excess of \$500.00, a person who has had an operator's license suspended or revoked as a result of demerit points, a person who has been convicted or forfeits bail on a

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charge of driving while license is suspended, revoked or cancelled, or a person who fails to satisfy a judgment arising from a motor vehicle accident occurring either in- or outside of the state. Article 2, Chapter 8, of Title 13 of the Alaska Administrative Code implements the Motor Vehicle Safety Responsibility Act (AS 28.20.010-.640). The Department of Public Safety has responsibility to administer the Act (AS 28.20.020). The Act does not provide for separate administration by municipalities. Accordingly, sections dealing with motor vehicle insurance have been deleted.

The proposed Title 10 also includes a new Chapter 10.07. This chapter defines certain terms used in Chapters 10.02, 10.04 and 10.06 of the draft. In addition, it clarifies that a violation of any of the provisions of Chapters 10.02, 10.04 or 10.06 are violations subjecting the guilty party to a fine not to exceed \$300.00. The Chapter adopts the bail forfeiture and fine schedule promulgated by the Alaska Supreme Court as set forth in Administrative Rule 43.1 of the Alaska Rules of Court as the bail forfeiture and fine schedule for the City.

Draft Section 10.07.040 adopts a procedure for disposition of citations issued by Bethel police officers under Chapters 10.02, 10.04 or 10.06. The procedure allows a person to, within seven days from the date stated on the citation, mail or deliver to the District Court in Bethel the amount of the bail or fine indicated on the citation for the offense, together with a copy of the citation signed by the person indicating either the person's waiver of his or her right to appear for arraignment, plea of no contest and request that the bail or fine amount enclosed be used to satisfy the offense, or to the person's waiver of right to appear for arraignment, plea of not guilty and request for trial. A person failing to mail the bail amount to the court and failing to appear for trial on the matter may be subject to arrest pursuant to a bench warrant.

Under District Court Criminal Rule 8(i), the City may be represented at a trial on a traffic citation by the officer issuing the citation. However, the officer may not examine witnesses, make opening and closing arguments or otherwise act as an attorney. The employee is limited to giving testimony only. This means that the City need not incur additional expense in prosecuting violations under the Code.

We have attempted to maintain consistency between the draft Title 10 and Title 13 of the Alaska Administrative Code. The

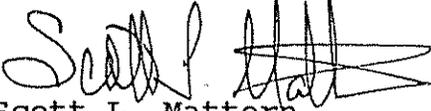
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section numbers reflect the attempt to keep Title 10 consistent with Title 13. However, we did not include sections that were not relevant to Bethel. For example, sections dealing with divided highways and railroad crossings were not included. The subsections do not always mirror Title 13. Title 13 includes many subsections that have been repealed and which are not included in the draft. The draft indicates which subsections of Title 13 are to be adopted by the City.

If you have any questions, please feel free to contact me.

Very truly yours,

HICKS, BOYD, CHANDLER & FALCONER


Scott L. Mattern

SLM:lcj
Enclosure
cc: Chief Liu (w/enc)
bethel\title.rev\gross.2