

Introduced by: City Clerk
Date: January 25, 1994
Public Hearing: February 8, 1994
Action: Passed
Vote: 6-yes; 0-no

ORDINANCE #94-03

AN ORDINANCE OF THE CITY COUNCIL OF BETHEL, ALASKA, AMENDING TITLE 2 OF THE BETHEL MUNICIPAL CODE BY ADDING A NEW CHAPTER 2.40 TO THE EXISTING TITLE 2, ENTITLED ACCESS TO PUBLIC RECORDS.

WHEREAS, the City Council of the City of Bethel, Alaska, recognizes the peoples' right to remain informed and to have access to public records; and

WHEREAS, it is the policy of the City of Bethel to provide public access to municipal records and information in an effort to protect the right to remain informed while recognizing the competing interest of personal privacy;

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

Section 1: Title 2 of the Bethel Municipal Code is amended by adding Chapter 40.

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 confirmed 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.

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Section 4: Ordinance #94-03 amending Title 2 of the Bethel Municipal Code of Ordinances by adding Chapter 40 entitled Access to Public Records is hereby adopted as follows:

2.40.010 Public records. Except as provided by Section 2.40.050 of this Code, or by other provision of municipal, state, or federal law, the books, records, papers, files, accounts, writings, and transactions of the City are public records open to inspection by the public under reasonable rules during regular office hours.

2.40.020 Access and inspection of Public records. Public records may be inspected at the place where the records are kept during regular office hours. All City officers and employees shall, consistent with the orderly conduct of city business, make a good faith and diligent effort to respond to requests for inspection of records. If responding to one or more requests for inspection of public records made by the same person within a calendar month are anticipated to require than four hours of labor to complete, the City may require the person making the request to pay the City's labor costs for the period in excess of four hours actually spent by any City employee in responding to the request. The costs may not exceed the unit cost of salary and benefits for employees who are involved in the search. The City Clerk is authorized to establish rates and costs for all inspections of public records.

2.40.030 Copies of public records. A. Certified copies. The City Clerk shall give, on request and payment of costs, a certified copy of any public record.

B. Photocopies. The City shall give, on request and payment of costs, copies of any public record.

C. Charge for copies. The charge for copies (whether certified or not) may not exceed the cost to the City, which cost may include all photocopy, clerical and other costs directly related to the provision of the copies. Payment for copies shall be received before making copies. The City Clerk is authorized to establish rates and charges for copies of public records. The City Clerk may, in his or her discretion, waive charges for incidental copies.

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Section 2.40.040 Compilation or creation of records. Nothing in this code shall require the City to create records, compile, summarize, outline or in any other way create information from existing public records.

Section 2.40.050 Exemptions for particular records. The following documents are not public records:

- A. Documents which reveal the current or past financial or medical status of any specific individual;
- B. Records of vital statistics and adoption proceedings;
- C. Records pertaining to juveniles;
- D. Records required to be kept confidential by federal, state, or city law, statute, ordinance, regulation, or contract;
- E. Trade secrets;
- F. Patented and/or copyrighted material;
- I. Records of engineering, marketing, accounting, or other technical or financial data, which, if released, would provide a competitive advantage to any other persons or business engaged in similar or related activities;
- J. Proprietary information which a manufacturer, consultant or provider reasonably expects to be kept privileged or confidential to protect the property interests of persons providing the information or data;
- K. Communications between any agency or City employee and the City attorney which contain legal advice or analysis or concern potential, pending or actual litigation. This subsection does not protect from disclosure documents which were public records prior to the commencement of the litigation. Public records which are otherwise subject to disclosure may not be protected from disclosure by submission to the City attorney. Any documents marked "confidential" which are submitted to any agency or City employee from the City attorney's office shall only be produced if the City attorney so authorizes.

Section 2.40.060 Access to city personnel records. A. City personnel records, including employment applications and examination materials, are confidential and are not open to public inspection except as provided in this section.

B. The following information or records are available for public inspection, in accordance with the procedures established by this chapter:

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- (1) The names and position titles of all city employees;
- (2) The position held by any city employee;
- (3) Prior positions held by any city employee;
- (4) The dates of hire and separation of a city employee;
- (5) The compensation authorized for a city employee;
- (6) Any resume submitted by any person seeking employment with the city for one of the following positions:

- (a) City Manager;
- (b) Public Works Director;
- (c) Finance Director;
- (d) Chief of Police;

- (7) Any performance evaluation of the City Manager but only to the extent the performance evaluation does not contain any personal information the release of which would be an unwarranted invasion of privacy, or deal with the personal, intimate or otherwise private life of the City Manager.

Section 2.40.080 Special procedures for obtaining access to city personnel records. All persons who wish copies of city personnel records shall submit their request for this information in writing to the City Clerk. Within five (5) working days after receipt of such a request, the City Clerk shall give the city employee for whom access to information has been requested a copy of the request. If the employee objects to release of the requested information, the employee shall inform the City Clerk of the objection and the reasons for the objection in writing within five (5) working days after receipt of the copy of the request. The City Clerk shall then make a decision in writing as to whether the record will be provided and give a copy of the decision to both the affected employee and the person requesting the personnel record. Any person not satisfied with the decision of the City Clerk, may appeal the Clerk's decision to the City Council at its next regularly scheduled meeting.

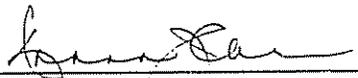
Section 2.40.100 Appeal of denial of request. In the event any person requests to inspect or have copied any document and is not allowed to do so, the person may appeal that decision to the City Clerk. If not satisfied with the decision of the City Clerk, the person shall be notified within five (5) working days of that

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decision of their right to appeal to the City Council at its next regularly scheduled meeting. The decision of the City Council shall be final and binding on the City and the person making the appeal.

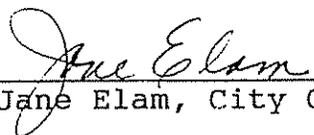
Section 5: This ordinance shall become effective upon adoption.

PASSED AND APPROVED THIS 8th DAY OF FEBRUARY, 1994.



Donna J. Chris, Mayor

ATTEST:



Jane Elam, City Clerk