

Introduced by: Mayor Klejka  
Date: December 29, 2009  
Public Hearing: January 12, 2010  
February 9, 2010  
Action: Failed  
Vote: 0-7

## *CITY OF BETHEL, ALASKA*

### **Ordinance #09-47**

#### **AN ORDINANCE OF THE CITY OF BETHEL, ALASKA AMENDING THE BETHEL MUNICIPAL CODE CHAPTER 5.08, ALCOHOLIC BEVERAGES, TO ADD THE PROVISION REGARDING ALCOHOLIC BEVERAGE SALES IN THE CITY OF BETHEL JURISDICTION**

- 1) **WHEREAS**, on October 6, 2009 the City of Bethel residents voted 615 yes versus 523 no on proposition #1, opting out of local option Alaska Statute 4.11.491 (a) (1) prohibiting the sale of alcoholic beverages;
- 2) **WHEREAS**, opting out of local option permitted licensing of alcohol sales in the city of Bethel;;
- 3) **WHEREAS**, based on the advisory votes cast at the City of Bethel Special Election on January 19, 2010 \_\_\_\_\_; the citizens of Bethel voted to express their wish to limit certain types of alcohol licensing within the City of Bethel;
- 4) **WHEREAS**, under AS 04.11.420 (a) the Alcohol Beverage Control (ABC) Board may not issue a license or permit for premises in a municipality where a zoning regulation or ordinance prohibits the sale or consumption of alcoholic beverages, unless a variance of the regulation or ordinance has been approved;
- 5) **WHEREAS**, under AS 04.11.420 (b) the City of Bethel must inform the ABC Board of zoning regulation or ordinances which prohibit the sale or consumption of alcoholic beverages. If a City of Bethel zoning regulation or ordinance prohibits the sale or consumption of alcoholic beverage at the proposed premises and no variance of the regulation or ordinance has been approved, the City must notify the ABC Board and provide a certified copy of the zoning regulation or ordinance;
- 6) **WHEREAS**, the Planning Commission approved by a vote of 6 in favor and 0 opposed these proposed changes to Chapter 5.08, Alcoholic Beverages of the Bethel Municipal Code;

**THEREFORE BE IT ORDAINED** by the City Council of Bethel, Alaska, that:

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**SECTION 1. Classification.** This ordinance is of a permanent nature and shall become a part of the Bethel Municipal Code.

**SECTION 2. Amendment.** The Bethel Municipal Code section 5.08 is amended as follows (new language is underlined and old language is stricken out):

**5.08.010 Defined.**

A. For the purpose of this chapter, "intoxicating liquors" and/or "alcoholic beverages" means all spirituous, vinous, salts and other fermented and or distilled liquors intended, or used, for human consumption and containing more than one (1) percent alcohol by volume.

B. For the purpose of this chapter, as used in this section, the term "school building", "school", "school grounds" or "educational building" shall apply only to state, county, city, or church school buildings and to such buildings at such other schools in which are taught subjects commonly taught in the common schools, universities and colleges of this state and which are public schools or private schools as defined State of Alaska. The term "school building" and "educational building" includes only those structures in which instruction is offered. The term "school grounds" and "college campus" shall apply only to the parcel or parcels of land on which a school, school building or educational building is located. The term "college" shall mean an educational institution authorized by the state to award associate, baccalaureate or higher degrees.

C. The term "church building" as used herein shall mean the main structure used by any religious organization for purposes of worship.

D. Health Care Facility means a private, municipal, state, or federal hospital, psychiatric hospital, independent diagnostic testing facility, residential psychiatric treatment center, skilled nursing facility, intermediate care facility, and ambulatory surgical facility; the term excludes;

1. The offices of private physicians or dentists whether in individual or group practice.

**5.08.11 Restriction of sales locations.**

A. No person may sell or offer to sell any alcoholic beverage in the City of Bethel jurisdiction except through a variance application through the Planning Department, a

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review by the Bethel Planning Commission and recommendation submitted to the Bethel City Council for approval/denial.

B. A license or permit will not be granted to any person or business for the sale or an offer to sell any alcoholic beverage within five hundred (500) ft of a church building, health care facility or within five hundred (500) ft of any school grounds or college campus.

C. For purposes of this section, distance shall be measured by the most direct route of travel on the ground and shall be measured in the following manner:

1. From the main parking lot entrance of the establishment from which alcoholic beverages are sold or offered for sale;
2. In a straight line, regardless of obstructions, to the nearest public sidewalk, walkway, street, road or highway by the nearest route;
3. To the main entrance of the church building, health care facility or to the nearest portion of the school grounds or college campus.

#### **5.08.012 Alcohol beverages and licensing**

A. The sale of alcoholic beverages is not permitted under the following types of alcohol licenses

1. Beverage dispensary license.
2. Duplication beverage dispensary license for additional rooms.
3. Restaurant or eating place license.
4. Club license.
5. Private clubs license.
6. Bottling works license.
7. Brewery license.
8. Package store license.
9. General wholesale license.
10. Wholesale malt beverage and wine license.
11. Distillery license.
12. Common carrier dispensary license.
13. Retail stock sale license.
14. Recreational site license.
15. Pub license.
16. Winery license.
17. Caterer's permit.

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- 18. Special events permit.
- 19. Conditional contractor's permit.
- 20. Brewpub license.
- 21. Golf course license.
- 22. Outdoor recreational lodge license.

#### **5.08.020 Closing hours.**

No person shall consume, sell, offer for sale, give, furnish, or deliver from an authorized licensee, any intoxicating liquor by the drink on any licensed premises between the hours of 12:00 midnight and 12:00 noon each day, except on those days when the licensed establishment is required to be closed for the entire day by this chapter or any other law. ~~The package liquor store shall close at 6:30 p.m.~~

#### **5.08.030 Bringing liquor to licensed premises – Leaving partial containers.**

A. No person shall have in his immediate possession on a licensed premises any container which contains any alcoholic beverage which was not furnished to him by the licensee, or his agent or employee, of that premises.

B. No person shall exit from a licensed premises, or a licensed building or enclosure, if there is any open or partially empty container which contains any alcoholic beverage which was furnished to him by the licensee, or his agent or employee.

#### **5.08.040 Maintenance of order.**

Each licensed premises, except private clubs, shall employ at least one (1) person, licensed as required in BMC 5.08.050, who shall be on duty between 8:00 p.m. and the closing hour of the licensed premises. This person shall not be the bartender on duty, manager, owner or co-owner of the establishment and shall be on duty for the express purpose of maintaining order within the establishment and assuring compliance, by the clientele, with the provisions of this chapter.

#### **5.08.050 Liquor handler permit – Required.**

No person in the employment of any retail liquor outlet in the city dispensing liquor to the public shall remain in that employment or handle intoxicating liquors unless such person is in possession of a liquor handler's permit. Such permit shall be immediately available to the permittee during all working hours for the licensee, and shall be displayed to any peace officer upon demand of the officer.

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**5.08.060 Liquor handler permit – Issuance – Revocation.**

All liquor handler permits shall be prepared and issued by the city clerk. These permits issued under BMC 5.08.050 shall be marked with the word "Security" in addition to all other present wording and shall be issued only after approval of the chief of police. All permits issued under this chapter may be cancelled, suspended, or revoked, for cause, at any time by the chief of police. All such cancelled, suspended, or revoked permittees shall have the right to appeal to the city council within twenty-one (21) days of the decision by the chief of police.

**5.08.070 Liquor handler permit – Cost.**

The cost of each permit issued under this chapter shall be twenty-five dollars (\$25) except that those permits issued to waitresses shall be ten dollars (\$10).

**5.08.080 Sunday and holiday sales.**

A. No person may consume, sell, offer for sale, give, furnish or deliver, from an authorized licensee, any intoxicating liquor on any licensed premises on any Sunday, or on the following holidays:

1. New Year's Day (January first (1st));
2. Lincoln's Birthday;
3. Washington's Birthday;
4. Memorial Day;
5. Independence Day (July Fourth (4th));
6. Labor Day (first (1st) Monday in September);
7. Thanksgiving Day (fourth (4th) Thursday in November);
8. Christmas Day (December twenty-fifth (25th)).

B. For the purpose of this chapter, the holidays set out in subsection A of this section shall be observed according to the federal designation for their observation. For the purpose of determining Sundays and holidays as prescribed in this section, they shall commence at the closing hour of the business hours for the preceding day and shall terminate at the opening hour of the day following the Sunday or holiday.

**5.08.090 Election day sales.**

It is unlawful to give, barter, sell, or in any licensed premises to dispose of, any intoxicating liquor upon a day upon which a general, special or primary election is held in the state at large, until the polls have closed, or to so dispose of liquor in the city when an election is being held therein until the polls are closed.

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**5.08.100 Minors.**

No person shall give, barter, sell, furnish or deliver any intoxicating liquor to any intoxicated person or to any minor.

**5.08.110 Permitting violation.**

It is unlawful for the owner of any licensed premises or any other person to direct, request, cause, or permit any violation of this chapter.

**5.08.120 Inspection of premises.**

The premises of licensees authorized to sell or distribute intoxicating liquor shall be easily accessible for inspection by peace officers during all regular hours of the transaction of business upon the premises, and at any other time with reasonable notice by the officer.

**5.08.130 Violation – Penalty.**

Any person, firm, or corporation convicted of a violation of any provision of this chapter shall be punished pursuant to Chapter 1.08 BMC.

**SECTION 3. Effective Date.** This chapter shall become effective upon passage by the City Council.

**ENACTED THIS \_\_\_ DAY OF \_\_\_\_\_ 2009, BY A VOTE OF \_\_\_ IN FAVOR  
AND \_\_\_ OPPOSED.**

\_\_\_\_\_  
Joseph Klejka, Mayor

ATTEST:

\_\_\_\_\_  
Lori Strickler, City Clerk

City of Bethel, Alaska

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