

CITY OF BETHEL, ALASKA

Ordinance #10-19

AN ORDINANCE AMENDING BMC 4.20 PURCHASING, TO ELIMINATE COMMITTEE AND COMMISSION MEMBERS FROM THE REQUIREMENTS OF OBTAINING A WAIVER TO DO BUSINESS WITH THE CITY

NOW, THEREFORE BE IT ENACTED by the City Council of Bethel Alaska as follows:

SECTION 1. Classification. This ordinance is of permanent nature and shall be codified within the Bethel Municipal Code.

SECTION 2. Amendment. Section 4.20, of the Bethel Municipal Code are hereby amended as follows (new language is underlined and old language is stricken out):

4.20.030 Definitions

H. Employee. "Employee" means an individual drawing a salary or wages from the city, whether elected or not; ~~any noncompensated individual performing personal services for the city or any department, agency, commission, council, board or any other entity established by the executive or legislative branch of the city;~~ and any noncompensated individual serving as an elected official.

~~4.20.230 Contemporaneous employment prohibited.~~

~~It shall be unethical for any city employee who is participating directly or indirectly in the procurement process to become or to be, while such a city employee, the employee of any person contracting with the governmental body by whom the employee is employed.~~

4.20.240 Waivers from ~~contemporaneous employment and~~ conflict of interest provisions.

The city council may grant a waiver from the employee conflict of interest provision (BMC 4.20.200), ~~or the contemporaneous employment provision (BMC 4.20.230),~~ upon making a written determination that:

- A. ~~The contemporaneous employment of financial interest of the city employee~~ conflict of interest has been publicly disclosed;
- ~~B-The city employee will be able to perform its procurement functions without actual or apparent bias or favoritism; and~~
- C. The award will be in the best interests of the city.

4.20.260 Sanctions designated.

A. Employees. The city manager or city council may impose any one (1) or more of the following sanction on a city employee for violations of ethical standards in this article:

1. Oral or written warnings or reprimands;
2. Suspension with or without pay for specified periods of time; or
3. Termination of employment.

B. ~~Nonemployees.~~ Elected official. The city council may impose any one (1) or more of the following sanctions ~~on a nonemployee~~ for violations of the ethical standards:

- ~~1. Written warnings or reprimands;~~
- ~~2. Termination of contracts; or~~
- ~~3. Debarment.~~
1. Termination of contract;
2. Censuring. Such censure shall be made upon a two-thirds (2/3) majority vote of the city council. No member of the city council may vote on any question of his or her own censure, but may participate in any discussion and debate on the matter.

4.20.270 Recovery of value received or transferred.

A. General Provisions. The value of anything transferred or received in breach of the ethical standards of this chapter by a city employee or ~~a nonemployee~~ an elected official may be recovered from both city employee and ~~nonemployee~~ an elected official.

B. Recovery of kickbacks by the City. Upon a showing that a subcontractor made a kickback to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or order there under, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by the city and will be recoverable hereunder from the recipient. In addition, that amount may also be recovered from the subcontractor making such kickbacks. Recovery from one (1) offending party shall not preclude recovery from other offending parties.

SECTION 3. Effective Date. This ordinance shall become effective upon passage by the Bethel City Council.

ENACTED THIS 25 DAY OF MAY 2010, BY A VOTE OF 4 IN FAVOR AND 2 OPPOSED.

ATTEST:


Lori Strickler, City Clerk


Joseph Klejka, Mayor