



**City Council Meeting Agenda
Special Meeting
November 3, 2015-6:30 pm
City Council Chambers, City Hall, Bethel, AK**

Rick Robb
Council Member
Term Expires 2017
543-1879
rrobb@cityofbethel.net

Leif Albertson
Council Member
Term Expires 2017
543-2819
lalbertson@cityofbethel.net

Chuck Herman
Council Member
Term Expires 2016
545-5394
cherman@cityofbethel.net

Zach Fansler
Council Member
Term Expires 2016
545-3300
zfansler@cityofbethel.net

Byron Maczynski
Council Member
Term Expires 2016
545-0970
bmaczynski@cityofbethel.net

Nikki Hoffman
Council Member
Term Expires 2017
nhoffman@cityofbethel.net

Alisha Welch
Council Member
Term Expires 2017
arwelch@cityofbethel.net

Ann Capela
City Manager
543-2047
acapela@cityofbethel.net

Lori Strickler
City Clerk
543-1384
lstrickler@cityofbethel.net

Patty Burley
City Attorney

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

IV. PEOPLE TO BE HEARD – Five minutes per person

V. APPROVAL OF AGENDA

VI. UNFINISHED BUSINESS

- a) Public Hearing Of Ordinance 15-32: Amending Bethel Municipal Code Section 5.08, Alcoholic Beverages (Council Member Fansler)
- b) AM 15-47: Authorizing The City Manager To Enter Into A Contract With Wilson Agency For The City's Brokerage Services (Vice-Mayor Albertson)

VII. NEW BUSINESS

- a) Rescinding Resolution 15-08: Protesting the Issuance Of A Package Store License To Bethel Spirits, LLC. – License ID # 5384; Located At 905 Chief Eddie Hoffman Highway, Suite B, Bethel (Vice-Mayor Maczynski)
- b) Amend Something Previously Adopted - Resolution 15-15: Protesting the Issuance Of A State Of Alaska Alcoholic Package Store License For AC Quickstop Owned By North West Company Inc.; – License ID # 5418; Located At 131 Akakeek Street (Mayor Robb)
- c) Rescinding Resolution 15-15: Protesting the Issuance of a State of Alaska Alcoholic Package Store License For AC Quickstop; Located at 131 Akakeek Street; Owned by North West Company Inc.; License ID# - 5418 (Mayor Robb)

VIII. EXECUTIVE SESSION

- a) Alaska Statutes 44.62.310 Government Meetings, b, 1, Matters, The Immediate Knowledge Of Which Would Clearly Have An Adverse Effect Upon The Finances Of The Public Entity- Potential Litigation- Rescinding The Appeal On The Decision Made By The Alcohol Beverage Control Board To Not Uphold The City's Protest Of A Package Store License For Bethel Spirits (Council Member Hoffman)

IX. ADJOURNMENT

Introduced by: Council Member Fansler on behalf
of the City Attorney
Date: September 22, 2015
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Vote:

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CITY OF BETHEL, ALASKA

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Ordinance #15-32

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**AN ORDINANCE BY THE BETHEL CITY COUNCIL, REPEALING AND
REPLACING BETHEL MUNICIPAL CODE 5.08, ALCOHOLIC BEVERAGES**

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THEREFORE BE IT ORDAINED by the City Council of Bethel, Alaska, that the Bethel
Municipal Code shall be amended and revised as follows:

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

SECTION 2. Amendment. Bethel Municipal Code Chapter 5.08 is repealed and replaced,
(old language is stricken):

Chapter 5.08
ALCOHOLIC BEVERAGES

Sections:

~~5.08.010~~ Defined.

~~5.08.011~~ Consumption, sale and service of alcoholic beverages prohibited.

~~5.08.020~~ Closing hours.

~~5.08.030~~ Bringing liquor to licensed premises—Leaving partial containers.

~~5.08.040~~ Maintenance of order.

~~5.08.050~~ Liquor handler permit—Required.

~~5.08.060~~ Liquor handler permit—Issuance—Revocation.

~~5.08.070~~ Liquor handler permit—Cost.

~~5.08.080~~ Sunday and holiday sales.

~~5.08.090~~ Election day sales.

~~5.08.100~~ Minors.

~~5.08.110~~ Permitting violation.

~~5.08.120~~ Inspection of premises.

~~5.08.130~~ Violation—Penalty.

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37 5.08.010 Defined.

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

42 5.08.011 Consumption, sale and service of alcoholic beverages prohibited.

43 A. No person may sell or offer to sell any alcoholic beverage in package stores or bars
44 within three hundred (300) feet of a church building or within three hundred (300) feet
45 of any school grounds.

46 B. No person may sell or offer to sell any alcoholic beverage in or within two hundred
47 (200) feet of a church building or within two hundred (200) feet of any school grounds.

48 C. Any person or business that is behind in taxes to the city of Bethel is prohibited from
49 receiving alcoholic beverage licenses.

50 D. As used in this section, the terms "school building," "school," "school grounds" or
51 "educational building" shall apply only to state, county, city, or church school buildings
52 and to such buildings at such other schools in which are taught subjects commonly
53 taught in the common schools, and which are public schools or private schools as
54 defined by the state of Alaska. The terms "school building" and "educational building"
55 include only those structures in which instruction is offered, except colleges and
56 universities. The term "school grounds" shall apply only to the parcel or parcels of land
57 on which a school, school building or educational building is located, except colleges
58 and universities.

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

61 F. The requirements for minimum distance from a church building located in a shopping
62 center shall not apply to any license for retail package or retail consumption.

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

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65 ~~1. From the main parking lot entrance of the establishment from which alcoholic~~
66 ~~beverages are sold or offered for sale;~~

67 ~~2. In a straight line, regardless of obstructions, to the nearest public sidewalk,~~
68 ~~walkway, street, road or highway by the nearest route;~~

69 ~~3. To the main entrance of the church building or to the nearest portion of the~~
70 ~~school grounds.~~

71 ~~5.08.020 Closing hours.~~

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

77 ~~5.08.030 Bringing liquor to licensed premises—Leaving partial containers.~~

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

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

84 ~~5.08.040 Maintenance of order.~~

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

91 ~~5.08.050 Liquor handler permit—Required.~~

92 ~~No person in the employment of any retail liquor outlet in the city dispensing liquor to~~
93 ~~the public shall remain in that employment or handle intoxicating liquors unless such~~

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94 ~~person is in possession of a liquor handler's permit. Such permit shall be immediately~~
95 ~~available to the permittee during all working hours for the licensee, and shall be~~
96 ~~displayed to any peace officer upon demand of the officer.~~

97 ~~5.08.060 Liquor handler permit — Issuance — Revocation.~~

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

105 ~~5.08.070 Liquor handler permit — Cost.~~

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

108 ~~5.08.080 Sunday and holiday sales.~~

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

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

120
121 ~~B. For the purpose of this chapter, the holidays set out in subsection A of this section~~
122 ~~shall be observed according to the federal designation for their observation. For the~~
123 ~~purpose of determining Sundays and holidays as prescribed in this section, they shall~~
124 ~~commence at the closing hour of the business hours for the preceding day and shall~~
125 ~~terminate at the opening hour of the day following the Sunday or holiday.~~

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126 ~~5.08.090 Election day sales.~~

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

131 ~~5.08.100 Minors.~~

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

134 ~~5.08.110 Permitting violation.~~

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

137 ~~5.08.120 Inspection of premises.~~

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

142 ~~5.08.130 Violation — Penalty.~~

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

145

146 5.08.010 Definitions

147 5.08.020 Procedure for Administrative Review of License Applications

148 5.08.030 City Council Review of License

149 5.08.040 Council Action on Liquor License Applications

150 5.08.050 Special Use Permit Required

151 5.08.060 Restriction on Location of Alcohol Sales

152 5.08.070 Licensee Responsible for Employees' Actions on Premises

153 5.08.080 Hours and Days of Operation

154 5.08.090 Obligation to Enforce Restrictions within Licensed Premises

155 5.08.100 Alcohol Server Training Course Requirement

156 5.08.110 Operation of Licensed Premises

157 5.08.120 Restrictions on Purchase and Sale of Alcoholic Beverages

158 5.08.130 Sale to Intoxicated Persons

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- 159 5.08.140 Eviction of Patrons
- 160 5.08.150 Permitting Consumption on Premises
- 161 5.08.160 Open Container
- 162 5.08.170 Transportation of Alcohol
- 163 5.08.180 Keg Registration
- 164 5.08.190 Inspection of Premises
- 165 5.08.200 Access for Enforcement
- 166 5.08.210 Alcohol Offenses
- 167 5.08.220 Penalties

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5.08.010 Definitions.

- 173 A. "Alcoholic Beverages" mean all spirituous, vinous, malt or other fermented or
174 distilled whatever the origin, that is intended for human consumption as a
175 beverage and that contains one-half of one (1) percent or more of alcohol by
176 volume, whether produced commercially or privately.
177
- 178 B. "Board" means the Alcoholic Beverage Control Board established under AS
179 04.06.010.
180
- 181 C. "Intoxicated Person" means a person whose physical or mental conduct is
182 substantially impaired as a result of the introduction of an alcoholic beverage
183 into the person's body and who exhibits those plain and easily observed or
184 discovered outward manifestations of behavior commonly known to be produced
185 by the overconsumption of alcoholic beverages.
186
- 187 D. "Licensed Premises" means any or all designated portions of a building or
188 structure, rooms or enclosures in the building or structure, or real estate leased,
189 used, controlled, or operated by a licensee in the conduct of business for which
190 the licensee is licensed by the ABC Board and the City at the specific address for
191 which the license is issued.
192
- 193 E. "Liquor License" means any of the licenses or permits described in AS 04.11.080
194

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- 195 F. "Open containers" means any original container or package without the Internal
196 Revenue Service strip stamp intact upon such container or package; any
197 container or package that has been opened at least once since purchase or
198 manufacture; or any container or package containing an alcoholic beverage
199 other than the original container or package.
200
201 G. "Person" means an individual, partnership, cooperative, association, joint
202 venture, corporation, estate trust, business, receiver, or any entity, group or
203 combination acting as a unit.
204
205 H. "School" means the physical building and/or grounds of an educational facility
206 operated either publicly or privately in which are taught subjects commonly
207 taught in throughout the State of Alaska.

208 **5.08.020 Procedure for Administrative Review of License Applications.**

- 209 A. Upon receipt of notice from the Board of an application for the issuance,
210 renewal, transfer of location or transfer to another person of a liquor license for
211 a license location in the City, the clerk shall as soon as practicable distribute
212 copies of the notice to the city manager, the city council and the city attorney.
213
214 B. The city manager shall immediately refer the application for review as follows:
215
216 1. To the planning director or their designee to determine if the applicant has
217 complied with the Special Use provisions of BMC 16.20;
218
219 2. To the finance director or their designee to determine whether the licensee or
220 license transferee is delinquent in paying to the City any tax, assessment,
221 business license fee, or fee or charge for utility service for the business
222 and/or affiliate (as defined in 3 AAC 304.990) that operates or will operate,
223 under the liquor license.
224 3. To the police and fire chiefs to determine whether, in their opinion there have
225 been excessive calls for service, excessive numbers of convictions or arrests
226 for unlawful activity at the license location, police or ambulance reports,
227 reports of unlawful activity at the license location, or police, fire or ambulance
228 dispatches to the license location.
229

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- 230 C. The fire chief, police chief, planning director and finance director shall forward
231 written statements to the city manager within fourteen (14) calendar days after
232 the application was referred by the city manager.
233
- 234 D. The city manager shall provide a written report to the city council, with a copy to
235 the applicant, listing any objections to the Board's issuance of the application.
236 The city manager's report is due not less than twenty (20) days but not more
237 than thirty (30) days after the date of receipt of notice from the city clerk.
238
- 239 E. An applicant who believes the city manager's report contains factual errors shall
240 file a written protest outlining, with specific, the sections of the report believed to
241 be factually incorrect. Such protest must be filed to the city manager not later
242 than ten (10) calendar days after issuance of the city manager report.
243
- 244 F. The city manager shall investigate the applicant's protest and shall issue a
245 written decision no later than ten (10) calendar days after receipt of the protest.
246
- 247 G. The city clerk shall place the matter of the application upon the city council
248 agenda not less than thirty (30) and not more than forty (40) calendar days
249 after the date of receipt from the Board;

250 **5.08.030 City Council Review of License.**

251 The city council shall determine whether to protest the issuance, renewal or transfer
252 of a liquor license application and shall consider the following factors it believes are
253 pertinent. Such factors shall include, but not be limited to:

- 254 1. City records indicating whether the applicant and/or transferor is in violation
255 of the city sales tax ordinances or regulations, has failed to comply with any
256 of the filing, reporting or payment provisions of the city ordinances or
257 regulations, or has any unpaid balance due on tax accounts for which the
258 applicant and/or transferor is liable;
- 259 2. The character and public interests of the surrounding neighborhood;
- 260 3. Actual and potential law enforcement problems;
- 261 4. Whether the applicant can demonstrate prospective or continued compliance
262 with a liquor server awareness training program approved by the Board, such
263 as or similar to the program for techniques in alcohol management (T.A.M.);

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- 264 5. The concentration of other licenses of the same and other types in the area;
265 6. Whether the surrounding area experiences a high rate of alcohol abuse, crime
266 or accidents in which the abuse of alcohol is involved;
267 7. The adequacy of parking facilities;
268 8. The safety of ingress to and egress from the premises;
269 9. Compliance with state and local fire, health and safety codes;
270 10. The degree of control the licensee has or proposes to have over the conduct
271 of the licensed business. In determining the applicant's demonstrated ability
272 to maintain order and prevent unlawful conduct, the city council may consider
273 police reports, the appearance of a readily identifiable pattern or practice of
274 recurring violent acts or unlawful conduct on the licensed premises.
275 testimony presented before the council, written comments, or other evidence
276 deemed to be reliable and relevant to the purpose of this subsection;
277 11. Whether the applicant can demonstrate prospective or continued compliance
278 with operations procedures for licensed premises set forth in BMC section
279 5.08.110.
280 12. The proximity to a school or church, senior citizen apartment
281 housing/facilities, alcohol inpatient or outpatient treatment;
282 13. Any history of convictions of the applicants and affiliates of the applicants for:
283 (a) Any violation of AS Title 04;
284 (b) Any violation of city ordinances;
285 14. If application is made for the renewal or transfer of location or transfer of
286 ownership of a license, the City shall consider whether the operator has
287 engaged in a pattern of practices injurious to public health or safety, such as
288 providing alcohol to minors or intoxicated persons, committing serious
289 violations of state law relevant to public health or safety, or other actions
290 within the knowledge and control of the operator which place the public
291 health or safety at risk. In determining if a pattern or practices injurious to
292 public health or safety exists, the city council may consider criminal
293 convictions, credible proof of illegal activity even if not prosecuted, police
294 reports, testimony presented before the council, or other evidence deemed to
295 be reliable and relevant to the purpose of this subsection.

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296 15. Any other factor the city council determines is relevant to a particular
297 application.

298 **5.08.40 Council Action on Liquor License Applications.**

- 299 A. At the date and time set for consideration of the proposed application, the city
300 council shall determine whether to protest the issuance, renewal, relocation or
301 transfer of a license.
302
- 303 B. If a majority of the city council votes to protest the application, a resolution shall
304 be prepared and introduced at the next regularly scheduled council meeting or
305 earlier if necessary to meet the requirements of AS 04.11.480.
306
- 307 C. At least seven (7) calendar days prior to the council meeting, the city clerk shall
308 provide the applicant with:
309
- 310 1. A copy of the proposed resolution; and
 - 311 2. Notice of the date and time when council will consider the resolution; and
 - 312 3. Notice the applicant will have an opportunity, pursuant to 3 AAC
313 304.145(d), to appear before the council to defend the application.
314
- 315 D. A protest by the council under this section cannot be based in whole or in part
316 on police reports or other written materials available to the City but which were
317 not provided to the affected applicant before the public hearing on that protest.
318
- 319 E. At the conclusion of the public hearing, and any deliberation of the council, the
320 council may choose to:
321
- 322 1. Pass the resolution protesting to the Board the issuance, transfer or
323 renewal of the liquor license application; or
 - 324 2. Recommend the license be approved with conditions; or
 - 325 3. Take no action on the application.

326 ~~**5.08.050 — Special Use Permit Required.**~~

327 ~~Unless exempt, any use that includes the retail sale or dispensing of alcoholic beverages~~
328 ~~is permitted only by a special use permit as outlined in BMC section 16.20. The special~~
329 ~~use requirement applies only to the retail sale or dispensing of alcoholic beverages and~~
330 ~~not to related principal or accessory uses.~~

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331 **~~5.08.060 — Restriction on Location of Alcohol Sales.~~**

332 ~~A. No beverage dispensary or package store licensee may sell or offer to sell any~~
333 ~~alcoholic beverage within three hundred (300) feet of a church building or within~~
334 ~~three hundred (300) feet of any school grounds.~~

335
336 ~~B. No other type of premises licensed under AS 04.11.080 may sell or offer to sell~~
337 ~~any alcoholic beverage in or within two hundred (200) feet of a church building,~~
338 ~~school grounds, senior housing facility, or alcohol treatment facility.~~

339
340 ~~C. For purposes of this section, distance shall be measured by the most direct route~~
341 ~~of travel on the ground and shall be measured in the following manner:~~

- 342
343 ~~1. From the main parking lot street entrance off of an established roadway of the~~
344 ~~establishment from which alcoholic beverages are sold or offered for~~
345 ~~sale;~~
346 ~~2. In a straight line, regardless of obstructions, to the nearest public~~
347 ~~sidewalk, walkway, street, road or highway by the nearest route;~~
348 ~~3. To the main entrance of the church building, senior housing facility,~~
349 ~~alcohol treatment facility or to the nearest portion of the school grounds.~~

350 **5.08.070 Licensee Responsible for Employees' Actions on Premises.**

351 A. A licensee may neither knowingly allow agents or employees to violate this
352 chapter or AS Title 04 or regulations adopted thereunder, or to recklessly or with
353 criminal or civil negligence fail to act in accordance with the duties prescribed
354 under AS 04.21.030 with the result that an agent or employee of the licensee
355 violates a law, regulation or ordinance.

356
357 B. The licensee shall be responsible for all acts or omissions of the licensee's
358 employees on the licensed premises. The licensee may be cited and prosecuted
359 for all acts or omissions of employees which are committed on the licensed
360 premises and which are in violation of this chapter; provided, however, that the
361 prosecution of the licensee shall not prohibit the prosecution of the employee for
362 acts or omissions committed by the employee in violation of any provision of this
363 chapter.

364 **05.08.080 Hours and Days of Operation.**

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- 365 A. Premises licensed under AS 4.11.080 for the service and consumption of
366 alcoholic beverages shall be closed for the sale, service and consumption of
367 alcoholic beverages between the hours of 10:00 p.m. and 11:00 a.m. Monday
368 through Friday, and between the hours of 11:00 p.m. and 11:30 a.m. on
369 Saturday or Sunday or on a legal holiday recognized by the state under AS
370 44.12.010 with the exception of New Year's Day during which the establishment
371 shall close at 1:00 am.
372
- 373 B. All other retail premises licensed under AS 4.11.080 shall be closed for the sale
374 of alcoholic beverages between the hours of 12:00 a.m. and 12:00 p.m. Monday
375 through Friday, between the hours of 2:00 a.m. and 3:00 p.m. on Saturday, and
376 between the hours of 2:00 a.m. and noon on Sunday.
377
- 378 C. A person may not sell, offer for sale, give, furnish, deliver or consume an
379 alcoholic beverage on premises licensed under AS 04.11 during the hours of
380 closure set forth in this section.
381
- 382 D. A licensee, an agent, or employee may not permit a person to consume alcoholic
383 beverages on the licensed premises between the hours of closure set forth in this
384 section.
385
- 386 E. A licensee, an agent, or employee may not permit a person to enter and a
387 person may not enter premises licensed under AS 04.11 during the hours of
388 closure set forth in this section. This subsection does not apply to common
389 carriers or to an employee of the licensee who is on the premises to prepare for
390 that day's or the next day's business.
391
- 392 F. As authorized by AS 04.16.070(b) the sale of alcoholic beverages on State and/or
393 City Election Days is not prohibited.

394 **5.08.090 Obligation to Enforce Restrictions within Licensed Premises.**

395 A licensee, their agent or employee may not permit the consumption of alcoholic
396 beverages by any person within the licensed premises unless it is permitted by the
397 license.

398 **5.08.100 Alcohol Server Training Course Requirement.**

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- 399 A. A licensee, their agent or employee may not sell or dispense alcoholic beverages
400 to the public prior to the successful completion of a liquor server awareness
401 training program approved by the Board.
402
- 403 B. A licensee, their agent or employee who elects to take an approved program
404 online, must have the examination proctored at the City of Bethel offices by a
405 duly appointed employee of the City.
406
- 407 C. Licensees, their agents and employee who sell or dispense alcoholic beverages
408 must be able to show proof of completion of a liquor server awareness training
409 program approved by the Board upon request by a peace officer, the city
410 manager (or their designee) or the Board.

411 **5.08.110 Operation of Licensed Premises.**

- 412 A. Except as otherwise provided in this section, the operations procedures set forth
413 in subsection B of this section shall apply to all persons seeking the issuance,
414 renewal or transfer of any license issued by the Board by virtue of AS Title 4 and
415 other applicable provisions of law allowing the sale or service of alcoholic
416 beverages. Subsections B1. of this section shall not apply to persons seeking the
417 issuance, transfer or renewal of licenses issued under AS Title 4 which do not
418 authorize the sale or service of alcoholic beverages for consumption on the
419 premises licensed.
- 420 B. Persons seeking the issuance, transfer or renewal of licenses issued by the Board
421 under AS Title 4 and other applicable provisions of law shall comply with the
422 following operations procedures:
- 423 1. *Happy Hours*. No licensee may:
- 424 i. Sell more than one (1) drink for the price of a single alcoholic drink,
425 or sell a drink with increased alcoholic content, or sell a multiple of
426 any number of drinks in a manner which has the effect of selling
427 more than one (1) drink for the price of a single drink.
- 428 ii. Advertise, promote or put in public notice the giving of free
429 alcoholic drinks to customers.

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- 430 iii. Advertise, promote or put in public notice the sale of alcoholic
431 beverages at a reduced price at certain times of the day or days of
432 the week. Nothing in this subsection shall prohibit a licensee from
433 increasing prices during times when entertainment is provided.
- 434 iv. This subsection shall not be construed to prohibit licensees from
435 giving away or selling at a reduced price food items to customers
436 and patrons.
- 437 2. *Public Transportation.* Licensees shall make available to their patrons access
438 to means of public transportation to permit patrons to make arrangements for
439 transportation off the premises.
- 440 3. *Notice of Penalties.* Operators shall place, at conspicuous locations within
441 licensed premises, a clear and legible sign describing applicable penalties for
442 driving under the influence, and for service or sale of alcoholic beverages to
443 minors or intoxicated persons.
- 444 4. *Availability of Nonalcoholic Drinks.* Operators shall have nonalcoholic drinks
445 available for their patrons.
- 446 5. *Compliance Determination.* In order to determine whether applicants seeking
447 the issuance, renewal or transfer of alcoholic beverage licenses have
448 complied with the provisions of this chapter, applicants shall, at the request
449 of the City, submit to the city manager (or their designee) an alcoholic
450 beverage licensee compliance form. Upon request, operators shall also
451 provide the city manager with certificates from all current employees
452 demonstrating that those employees have successfully completed a liquor
453 service awareness training program such as the program for techniques in
454 alcohol management (T.A.M.) as approved by the Board.
- 455 6. *Solicitation of Purchase of Alcoholic Beverages for Consumption by Employee.*
456 A person employed by a licensee shall not solicit or encourage any patron of
457 the licensed premises to purchase alcoholic beverages for consumption by the
458 employee or by any other employee. For the purposes of this subsection, the
459 term "employee" includes any contractual arrangement by which an individual
460 provides services to the licensee, whether compensation be in the form of
461 salary, commission, fee or otherwise.

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462 7. *Warning Signs for impoundment and Forfeiture of Vehicles Seized Pursuant to*
463 *an Arrest for or Charge of Driving Under the Influence or Refusal to Submit to*
464 *Chemical Tests. Upon adoption of a municipal code allowing for the forfeiture,*
465 *operators shall display at conspicuous places in licensed premises two (2)*
466 *signs warning that vehicles are seized in cases of driving under the influence*
467 *or refusal to submit to chemical tests. One of these warning signs shall be at*
468 *least eleven (11") inches by fourteen (14") inches in size, and must read, in*
469 *lettering at least one-half (1/2") inch high and in contrasting colors or black*
470 *and white, "DRIVE UNDER THE INFLUENCE—LOSE YOUR CAR." The sign*
471 *described in the preceding sentence must carry a logo or illustration approved*
472 *by the chief of police or their designee which shows an automobile being*
473 *towed. The second warning sign shall be at least eleven (11") inches by*
474 *fourteen (14") inches and must read, in letters at least one-quarter (1/4")*
475 *inch high and in contrasting colors or black and white, "WARNING: IF YOU*
476 *DRIVE UNDER THE INFLUENCE OR LET ANYONE DRIVE YOUR VEHICLE*
477 *UNDER THE INFLUENCE, YOU WILL LOSE YOUR VEHICLE. The police SEIZE*
478 *cars and trucks driven by intoxicated drivers. A vehicle will be IMPOUNDED*
479 *for 30 days for the driver's first DUI offense. A vehicle will be FORFEITED if*
480 *the driver has been convicted of DUI in the past ten (10) years."*

481 C. *Mandatory identification check in the retail sale of alcoholic beverages:* Licensee
482 or licensee's employee or agent shall require any purchaser (and anyone
483 accompanying the purchaser) of alcoholic beverages to produce a current
484 government-issued identification with birth date and photograph for identification
485 check prior to any on-premises sale. The purpose of the identification check is to
486 verify age and eligibility to purchase alcoholic beverages. Failure to conduct the
487 mandatory identification check required by this section is a violation of code and
488 the licensee or licensee's employee or agent failing to conduct the mandatory
489 identification check shall be subject to the civil penalty provisions of this chapter.
490 For purposes of mandatory identification check required by this section:

491 1. "*Current government-issued*" means a state, federal or foreign government
492 picture identification in force and effect for a specified period stated within
493 the identification, when presented prior to expiration of the period stated. A
494 state government identification with birth date and photograph issued by any
495 state of the United States is included within the meaning of "current
496 government-issued" if the period of validity is specified and the identification
497 is presented prior to expiration of the period stated.

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- 498 2. The subsequent invalidation of the identification as a bona fide government-
499 issued identification does not invalidate the compliance.
- 500 3. An ongoing pattern of non-compliance with the mandatory identification
501 check required by this code may result in review of the conditions of use or
502 may result in the revocation of a special use permit previously approved by
503 the city council. Action by the city council on licensee's special use permit
504 under this section shall be in addition to any criminal or civil penalty
505 applicable to the individual making the sale without performing the
506 mandatory identification check.
- 507 D. *Security Personnel.* Package stores and bars shall have security personnel on
508 the premises at all times that the premises are open to the public.
- 509 E. *Security Cameras.* At least two (2) twenty-four (24) hour time lapse security
510 cameras are required to be installed and properly maintained on the exterior of
511 the building at locations licensed to sell and/or store alcoholic beverages. At
512 least two (2) additional twenty-four (24) hour time lapse security cameras are
513 required to be installed and properly maintained in the interior of the building at
514 all locations licensed to sell and/or store alcoholic beverages. At least one of the
515 interior cameras must be able to capture all sales transactions. All criminal and
516 suspicious activities recorded on the surveillance equipment must be reported to
517 law enforcement as soon as practicable. To the extent allowed by law, the
518 establishment operators may be required to provide any tapes or other recording
519 media from the security camera to the Police Department.
- 520 F. *Premises to be cleared Upon Closing.* Upon closing, licensees shall clear alcoholic
521 beverage establishment of all persons, other than necessary employees, within
522 fifteen (15) minutes after the closing hours.
- 523 G. *Age Limit Signs to be exhibited.* All licensees shall cause to remain displayed
524 upon the premises and in the entrance to the premises of their establishments a
525 conspicuous sign in a prominent place visible from outside the establishment,
526 which shall in substance state: "No person under the age of 21 years permitted.
527 Any such person will be prosecuted to the full extent of the law." Excepting that
528 licensed establishments regularly serving meals may modify the sign in
529 accordance with the provisions of this chapter and AS 04.

530 **5.08.120 Restrictions on Purchase and Sale of Alcoholic Beverages.**

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531 A. A person licensed under AS 04.11.090 (Beverage Dispensary), 04.11.100
532 (Restaurant or Eating Place), 04.11.110 (Club License), or 04.11.150 (Package
533 Store) may not purchase, sell, or offer for sale an alcoholic beverage unless the
534 alcoholic beverage being purchased, sold, or offered for sale was obtained from
535 a person licensed under:

536 1. AS 04.11.160 (wholesale licenses) as a primary source of supply for the
537 alcoholic beverage being purchased, sold, or offered for sale;

538 2. AS 04.11.150 (package store) and the alcoholic beverage being purchased,
539 sold, or offered for sale was obtained from a person licensed under AS
540 04.11.160 (wholesale) as a primary source of supply; or

541 3. AS 04.11.130 (licensed brewery), 04.11.140 (licensed winery), or 04.11.170
542 (licensed distillery).

543 **5.08.130 Sale to Intoxicated Persons.**

- 544 A. A licensee, his agent or employee may not knowingly or negligently:
- 545 1. Sell, give or barter alcoholic beverages to an intoxicated person;
 - 546 2. Allow another person to sell, give or barter an alcoholic beverage to an
547 intoxicated person within the licensed premises;
 - 548 3. Allow an intoxicated person to enter and remain within the licensed
549 premises or to consume an alcoholic beverage within the licensed
550 premises; or
 - 551 4. Permit an intoxicated person to sell or serve alcoholic beverages.

552 **5.08.140 Eviction of Patrons.**

553 The licensee and employees of the licensee are expressly permitted to evict any person
554 suspected of being under the age of twenty-one (21) or intoxicated and failure of such
555 person to leave after oral request is unlawful and an offense on the part of that person.

556 **5.08.150 Open Container.**

- 557 A. It shall be unlawful to carry, transport or possess an open container of alcoholic
558 beverages on the public streets, sidewalks, alleys, parks, or other public places
559 throughout the city; except that an open container of alcoholic beverages may
560 be carried in a vehicle in a locked trunk or other secured location inaccessible to
561 the driver and passengers within the vehicle.

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562 B. Open containers are permitted on private residential property, with the consent
563 of the owner or legal occupant of the property.

564 **5.08.160 Transportation of Alcohol.**

565 The transportation of alcoholic beverages by common carrier or commercial
566 carrier within the City of Bethel to a residential home or non-licensed alcohol
567 distribution facility is strictly prohibited except as expressly authorized by AS 04.

568 ~~5.08.170—Keg Registration:~~

569 ~~A.—Obligations of seller. Any person who sells or offers for sale kegs or other~~
570 ~~containers containing four (4) gallons or more of alcoholic beverages, or leases~~
571 ~~kegs or other containers capable of holding four (4) gallons or more of alcoholic~~
572 ~~beverage to consumers who are not licensed under AS 04.11 shall, prior to~~
573 ~~surrendering physical possession of the keg or other container:~~

574 ~~1.—Require the purchaser of the alcoholic beverages to sign a declaration and~~
575 ~~keg registration form for the keg or other container on a form approved by~~
576 ~~the chief of police. The form shall contain:~~

577 ~~i.—The name and address of the seller and the purchaser;~~

578 ~~ii.—The type and identifying number of the identification presented by~~
579 ~~the purchaser pursuant to AS 04.21.050~~

580 ~~iii.—A sworn statement, signed by the purchaser under penalty of~~
581 ~~perjury, stating that the purchaser is twenty one (21) years of age~~
582 ~~or older; will not allow persons under twenty one (21) years of age~~
583 ~~to consume the alcoholic beverages purchased pursuant to AS~~
584 ~~04.16.051, will not remove or obliterate or allow the removal or~~
585 ~~obliteration of the temporary registration tag affixed to the keg or~~
586 ~~other container, and will return the keg to the seller within the time~~
587 ~~constraints set by the seller;~~

588 ~~iv.—The return date specified by the seller;~~

589 ~~v.—The particular address or addresses where the alcoholic beverages~~
590 ~~will be consumed, and the date on which it will be consumed;~~

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- 591 vi.—A warning that it is illegal to obscure or remove the registration
592 tag; and
- 593 vii.—The unique identifier of the temporary tag attached to the keg or
594 container as required under this section.
- 595 2.—Affix an approved temporary tag with a unique identifier to all containers over
596 four (4) gallons or more of an alcoholic beverage prior to surrendering
597 possession or control thereof to a consumer; and
- 598 3.—Require the purchaser to separately and prominently display a copy of the
599 keg registration form within five (5) feet of the keg or other container while
600 the keg or other container is in the purchaser's possession or control.
- 601 4.—Upon return of the keg or other container, the seller shall note the date
602 thereof and the initials of the person who accepts the return.
- 603 5.—The licensee shall retain a copy of the keg registration form and receipt,
604 which shall be retained on the licensed premises for a period of one (1) year.
605 The records shall be available for inspection and copying by any peace
606 officer, the city finance director or their designee, the Alcohol Beverage
607 Control Board investigator or agent.
- 608 B.—Obligations of purchaser. Any person who purchases or leases kegs or other
609 containers containing four (4) gallons or more of alcoholic beverages shall:
- 610 1.—Sign a declaration and keg registration form for the keg or other container on
611 a form provided by the seller pursuant to subsection A. of this section;
- 612 2.—Provide identification pursuant to AS 04.21.050;
- 613 3.—Be of legal age to purchase, possess, or use alcoholic beverages;
- 614 4.—Not allow any person under the age of 21 to consume the beverage except as
615 provided by AS 04.16.051;
- 616 5.—Not remove, obliterate, or allow to be removed or obliterated, the
617 identification required under subsection C. of this section;

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- 618 ~~6. Return the keg or other container to the place of purchase no later than the~~
619 ~~date indicated on the identification tag required under this section;~~
- 620 ~~7. Not move, keep, or store the keg or its contents, except for transporting to~~
621 ~~and from the distributor, at any place other than that particular address~~
622 ~~declared on the keg registration form; and~~
- 623 ~~8. Separately and prominently display a copy of the keg registration form within~~
624 ~~five (5) feet of the keg or other container during the time that the keg or~~
625 ~~other container is in the purchaser's possession or control.~~

626 ~~C. Identification of containers.~~

- 627 ~~1. A keg registration form provided by licensees and approved by the Bethel~~
628 ~~police chief shall be properly completed by the licensee for sales and leases~~
629 ~~of kegs or other containers holding four (4) or more gallons of alcoholic~~
630 ~~beverages for off premises consumption, and shall contain:~~
- 631 ~~2. The keg registration form affixed to the keg or container may serve as the~~
632 ~~purchaser's receipt.~~
- 633 ~~3. Kegs or other containers holding four (4) gallons or more of alcoholic~~
634 ~~beverages shall have a properly completed keg registration form affixed~~
635 ~~thereon when sold for off premises consumption. Possession of a keg or~~
636 ~~other container which holds four (4) gallons or more of alcoholic beverages,~~
637 ~~other than on the seller's premises, without a properly completed registration~~
638 ~~and declaration form either affixed thereon or in possession of the person~~
639 ~~with the keg(s) or other container holding four (4) or more gallons of~~
640 ~~alcoholic beverages shall be a violation of this chapter.~~

641 **5.08.180 Inspection of premises.**

- 642
- 643 A. The premises of licensees authorized to sell or distribute intoxicating liquor shall
644 be easily accessible for inspection by police officers during all regular hours of
645 the transaction of business upon the premises, and at any other time with
646 reasonable notice by the officer.
- 647
- 648 B. The police department may inspect any premises with an alcoholic beverage
649 license for compliance with conditions on the license. Upon discovering a

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650 violation of such conditions, the police department shall submit a written report
651 of the violation to the city clerk for review by the city council and provide a copy
652 thereof to the licensee.
653

654 C. If at any time there appears to be a readily identifiable pattern or practice of
655 recurring violent acts or unlawful conduct in a licensed premise, the City may
656 send notice of possible protest to the licensee that he or she must submit and
657 implement a plan for remedial action or be in jeopardy that a protest will be filed
658 to any renewal, transfer of location or transfer of ownership sought by the
659 licensee.
660

661 D. Upon receiving a report of conditions violation, the city council may:

- 662
- 663 1. Revoke the premise's conditional use permit;
 - 664
 - 665 2. Protest the issuance, renewal, transfer, relocation or continued operation of
666 the license;
 - 667 3. Recommend imposition of conditions on the state liquor license pursuant to
668 AS 04.11.480(c); or
669
 - 670 4. Notify the Board that a licensee has violated conditions and request that an
671 accusation pursuant to AS 04.11.370 be brought against the licensee.
672

673 E. Prior to taking any of the actions listed in subsection c) of this section, the City
674 shall give the permittee or licensee notice and an opportunity to be heard on the
675 accusation(s) at a publicly noticed council meeting.

676 **5.08.190 Access for Enforcement.**

677 A. The public entrance of licensed alcoholic beverage establishments shall be open
678 and unlocked before and after the closing hour of such establishment if there are
679 any patrons in the establishment.
680

681 B. Licensees of licensed alcoholic beverage establishments, their employees and all
682 patrons in such establishments shall permit and aid the entry of any law
683 enforcement officer during all hours of operation and at any other time when
684 there are two or more persons in such licensed alcoholic beverage establishment.

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685 C. Lack of knowledge, lack of intent and absence from the premises shall not be
686 defenses to any action brought under this section against any such employee in
687 charge of such establishment or such licensee.

688 D. The following evidence shall constitute a prima facie case of violation of this
689 section in any action under this section against any such employee in charge of
690 such establishment or against any licensee:

691 1. A law enforcement officer knocked heavily at the public entrance of a licensed
692 beverage dispensary or licensed alcoholic beverage establishment and such
693 entrance was not opened within one minute thereafter to permit his
694 entrance; plus

695 2. Evidence of sound emanating from the licensed alcoholic beverage
696 establishment, heard by such officer, and his opinion that he concluded that
697 two or more persons were in such establishment.

698 E. Licensees shall provide the Police Chief with their current hours of operation. Any
699 changes to the hours of operation shall be communicated, in writing, to the
700 Police Chief, at least three (3) business days prior to the change being
701 implemented.

702 **5.08.200 Alcohol Offenses.**

- 703 A. Violation of any section of this chapter shall be an infraction.
- 704 B. The Bethel Police Department shall have the authority to write and serve
- 705 citations for violations of the provisions of any portion of this chapter.

706 **5.08.210 Penalties.**

Offense	BMC Section	Mandatory Court Appearance	Penalty Amount
Premises Open during non-permissible hours	5.08.080A & B	No	1 st Offense: \$150 2 nd Offense: \$300 3 rd & subsequent offenses: \$700

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Premises Open during on non-permissible days	5.08.080A & B	No	1 st Offense: \$500 2 nd Offense: \$700 3 rd & subsequent offenses: \$1,000
Selling, Offering for Sale, Giving, Furnishing, Delivering or Consuming Alcohol on Premises during hours of Closure	5.08.080C	No	\$300
Allowing person to consume alcohol on premises during hours of closure	5.08.080D	No	\$300
Allowing non-employee onto premises during hours of closure	5.08.080E	No	\$300
Allowing consumption on premises in violation of license	5.08.090	No	\$500
Selling or dispensing alcohol prior to successful completion of a liquor server awareness training program	5.08.100A	Yes	\$1,000
Allowing employee to sell or dispense alcohol prior to their successful completion of a liquor server awareness training program	5.08.100A	Yes	\$1,000
Failure to show proof of successful completion of a liquor server awareness training program	5.08.100C	Correctable	\$300
Violation of Happy Hour rules	5.08.110B1	No	\$300
Failure to provide access to means of public transportation to patrons	5.08.110B2	No	\$150
Failure to permit patron to arrange for transportation off premises	5.08.110B2	No	\$500

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Failure to post clear and legible signs describing applicable penalties for DUI and for service of alcoholic beverages to minors or intoxicated persons	5.08.110B3	No	\$250
Failure to have non-alcoholic drinks available	5.08.110B4	No	\$150
Failure to submit an alcoholic beverage compliance form upon request	5.08.110B5	No	\$300
Solicitation by employee of the purchase of an alcoholic beverage for personal consumption by the employee	5.08.110B6	Yes	\$500
Failure to post warning signs for impoundment and forfeiture of vehicles seized pursuant to an arrest or charge of DUI or Refusal	5.08.110B7	No	\$250
Improper sized warning signs for impoundment and forfeiture of vehicles seized pursuant to an arrest or charge of DUI or Refusal	5.08.110B7	No	\$150
Failure to check identification of purchaser	5.08.110C	Yes	1 st Offense: \$500 2 nd Offense: \$700 3 rd & subsequent offenses: \$1,000
Acceptance of non-conforming identification for purchase of alcoholic beverage	5.08.110C	Yes	1 st Offense: \$150 2 nd Offense: \$300 3 rd & subsequent offenses: \$700
Failure to have security personnel on premises during hours of operation	5.08.110D	No	1 st Offense: \$500 2 nd Offense: \$700 3 rd & subsequent offenses: \$1,000
Failure to install or maintain security equipment	5.08.110E	Yes	1 st Offense: \$500 2 nd Offense: \$700 3 rd & subsequent offenses: \$1,000

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Failure to report suspicious activity from security cameras to law enforcement	5.08.110E	No	1 st Offense: \$150 2 nd Offense: \$300 3 rd & subsequent offenses: \$700
Interior camera not positioned to capture sales transactions	5.08.110E	Yes	1 st Offense: \$500 2 nd Offense: \$700 3 rd & subsequent offenses: \$1,000
Failure to clear premises after closing	5.08.110F	No	1 st Offense: \$150 2 nd Offense: \$300 3 rd & subsequent offenses: \$700
Failing to post age limit signs	5.08.150	No	\$300
Sale of alcoholic beverages improperly obtained	5.08.120	Yes	\$700
Sale of alcohol to an intoxicated person	5.08.130	Yes	1 st Offense: \$500 2 nd Offense: \$700 3 rd & subsequent offenses: \$1,000
Providing alcohol to an intoxicated person	5.08.130	Yes	1 st Offense: \$500 2 nd Offense: \$700 3 rd & subsequent offenses: \$1,000
Allowing another person to sell or provide alcohol to an intoxicated person	5.08.130A2	Yes	1 st Offense: \$500 2 nd Offense: \$700 3 rd & subsequent offenses: \$1,000
Allowing an intoxicated person to enter and remain within licensed premises	5.08.130A3	Yes	1 st Offense: \$150 2 nd Offense: \$300 3 rd & subsequent offenses: \$700
Permitting intoxicated person to consume alcoholic beverage within a licensed premise	5.08.130A3	Yes	1 st Offense: \$500 2 nd Offense: \$700 3 rd & subsequent offenses: \$1,000

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Permitting an intoxicated person to sell or serve an alcoholic beverage	5.08.130A4	Yes	1 st Offense: \$500 2 nd Offense: \$700 3 rd & subsequent offenses: \$1,000
Carrying, transporting or possessing an open container in public	5.08.150	No	1 st Offense: \$150 2 nd Offense: \$300 3 rd & subsequent offenses: \$700
Transportation of alcohol by common carrier	5.08.160	Yes	1 st Offense: \$500 2 nd Offense: \$700 3 rd & subsequent offenses: \$1,000
Transportation of alcohol by commercial carrier	5.08.160	Yes	1 st Offense: \$500 2 nd Offense: \$700 3 rd & subsequent offenses: \$1,000
Failure to Require or complete keg registration form	5.08.170	No	1st Offense: \$150 2nd Offense: \$300 3rd & subsequent offenses: \$700
Incomplete keg registration form	5.08.170	No	1st Offense: \$150 2nd Offense: \$300 3rd & subsequent offenses: \$700
Failure to tag or improperly tagged keg	5.08.170	No	1st Offense: \$150 2nd Offense: \$300 3rd & subsequent offenses: \$700
Removal or damaging of tag on keg	5.08.170	No	\$500
Failure to display keg registration form	5.08.170	No	\$300
Failure to affix keg declaration form to keg	5.08.170	No	\$300
Failure to retain keg declaration forms for one (1) year	5.08.170	No	\$500

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Failure to make premises easily accessible for inspection by police officers	5.08.180A	Yes	\$700
Failing to maintain premises unlocked while patrons are on premises	5.08.190A	Yes	\$1,000
Failure to permit or aid the entry of law enforcement during hours of operation	5.08.190B	Yes	\$700
Failure to permit or aid the entry of law enforcement any time there are two (2) or more persons on the premises	5.08.190B	Yes	\$700

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**Editor Note regarding amendments: The penalty section was amended de-facto after the adopted motion to strike the relevant section(s). LS 10-29-15*

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

ENACTED THIS ____ DAY OF (MONTH) 2015, BY A VOTE OF ___ IN FAVOR AND OPPOSED.

Richard Robb, Mayor

ATTEST:

Lori Strickler, City Clerk

Suggested Amendment to Ord. 15-32
from Council Member Herman

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of the City Attorney
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CITY OF BETHEL, ALASKA

Ordinance #15-32

**AN ORDINANCE BY THE BETHEL CITY COUNCIL, REPEALING AND
REPLACING BETHEL MUNICIPAL CODE 5.08, ALCOHOLIC BEVERAGES**

THEREFORE BE IT ORDAINED by the City Council of Bethel, Alaska, that the Bethel
Municipal Code shall be amended and revised as follows:

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

SECTION 2. Amendment. Bethel Municipal Code Chapter 5.08 is repealed and replaced,
(old language is stricken):

Chapter 5.08
ALCOHOLIC BEVERAGES

Sections:

- ~~5.08.010~~ — Defined.
- ~~5.08.011~~ — Consumption, sale and service of alcoholic beverages prohibited.
- ~~5.08.020~~ — Closing hours.
- ~~5.08.030~~ — Bringing liquor to licensed premises — Leaving partial containers.
- ~~5.08.040~~ — Maintenance of order.
- ~~5.08.050~~ — Liquor handler permit — Required.
- ~~5.08.060~~ — Liquor handler permit — Issuance — Revocation.
- ~~5.08.070~~ — Liquor handler permit — Cost.
- ~~5.08.080~~ — Sunday and holiday sales.
- ~~5.08.090~~ — Election day sales.
- ~~5.08.100~~ — Minors.
- ~~5.08.110~~ — Permitting violation.
- ~~5.08.120~~ — Inspection of premises.
- ~~5.08.130~~ — Violation — Penalty.

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37 ~~5.08.010 Defined.~~

38 ~~For the purpose of this chapter, "intoxicating liquors" and/or "alcoholic beverages"~~
39 ~~mean all spirituous, vinous, salt and other fermented and/or distilled liquors intended,~~
40 ~~or used, for human consumption and containing more than one (1) percent alcohol by~~
41 ~~volume.~~

42 ~~5.08.011 Consumption, sale and service of alcoholic beverages prohibited.~~

43 ~~A. No person may sell or offer to sell any alcoholic beverage in package stores or bars~~
44 ~~within three hundred (300) feet of a church building or within three hundred (300) feet~~
45 ~~of any school grounds.~~

46 ~~B. No person may sell or offer to sell any alcoholic beverage in or within two hundred~~
47 ~~(200) feet of a church building or within two hundred (200) feet of any school grounds.~~

48 ~~C. Any person or business that is behind in taxes to the city of Bethel is prohibited from~~
49 ~~receiving alcoholic beverage licenses.~~

50 ~~D. As used in this section, the terms "school building," "school," "school grounds" or~~
51 ~~"educational building" shall apply only to state, county, city, or church school buildings~~
52 ~~and to such buildings at such other schools in which are taught subjects commonly~~
53 ~~taught in the common schools, and which are public schools or private schools as~~
54 ~~defined by the state of Alaska. The terms "school building" and "educational building"~~
55 ~~include only those structures in which instruction is offered, except colleges and~~
56 ~~universities. The term "school grounds" shall apply only to the parcel or parcels of land~~
57 ~~on which a school, school building or educational building is located, except colleges~~
58 ~~and universities.~~

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

61 ~~F. The requirements for minimum distance from a church building located in a shopping~~
62 ~~center shall not apply to any license for retail package or retail consumption.~~

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

65 ~~1. From the main parking lot entrance of the establishment from which alcoholic~~
66 ~~beverages are sold or offered for sale;~~

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67 ~~2. In a straight line, regardless of obstructions, to the nearest public sidewalk,~~
68 ~~walkway, street, road or highway by the nearest route;~~

69 ~~3. To the main entrance of the church building or to the nearest portion of the~~
70 ~~school grounds.~~

71 5.08.020 Closing hours.

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

77 5.08.030 Bringing liquor to licensed premises — Leaving partial containers.

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

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

84 5.08.040 Maintenance of order.

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

91 5.08.050 Liquor handler permit — Required.

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

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97 ~~5.08.060 Liquor handler permit— Issuance— Revocation.~~
98 ~~All liquor handler permits shall be prepared and issued by the city clerk. These permits~~
99 ~~issued under BMC 5.08.050 shall be marked with the word "Security" in addition to all~~
100 ~~other present wording and shall be issued only after approval of the chief of police. All~~
101 ~~permits issued under this chapter may be cancelled, suspended, or revoked, for cause,~~
102 ~~at any time by the chief of police. All such cancelled, suspended, or revoked permittees~~
103 ~~shall have the right to appeal to the city council within twenty-one (21) days of the~~
104 ~~decision by the chief of police.~~

105 ~~5.08.070 Liquor handler permit— Cost.~~
106 ~~The cost of each permit issued under this chapter shall be twenty five dollars (\$25)~~
107 ~~except that those permits issued to waitresses shall be ten dollars (\$10).~~

108 ~~5.08.080 Sunday and holiday sales.~~
109 ~~A. No person may consume, sell, offer for sale, give, furnish or deliver, from an~~
110 ~~authorized licensee, any intoxicating liquor on any licensed premises on any Sunday, or~~
111 ~~on the following holidays:~~

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

120
121 ~~B. For the purpose of this chapter, the holidays set out in subsection A of this section~~
122 ~~shall be observed according to the federal designation for their observation. For the~~
123 ~~purpose of determining Sundays and holidays as prescribed in this section, they shall~~
124 ~~commence at the closing hour of the business hours for the preceding day and shall~~
125 ~~terminate at the opening hour of the day following the Sunday or holiday.~~

126 ~~5.08.090 Election day sales.~~
127 ~~It is unlawful to give, barter, sell, or in any licensed premises to dispose of, any~~
128 ~~intoxicating liquor upon a day upon which a general, special or primary election is held~~
129 ~~in the state at large, until the polls have closed, or to so dispose of liquor in the city~~
130 ~~when an election is being held therein until the polls are closed.~~

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131 ~~5.08.100 Minors.~~

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

134 ~~5.08.110 Permitting violation.~~

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

137 ~~5.08.120 Inspection of premises.~~

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

142 ~~5.08.130 Violation — Penalty.~~

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

145

146 5.08.010 Definitions

147 5.08.020 Procedure for Administrative Review of License Applications

148 5.08.030 City Council Review of License

149 5.08.040 Council Action on Liquor License Applications

150 ~~5.08.050 Special Use Permit Required~~

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151 ~~5.08.060 Restriction on Location of Alcohol Sales~~

152 5.08.070 Licensee Responsible for Employees' Actions on Premises

153 5.08.080 Hours and Days of Operation

154 5.08.090 Obligation to Enforce Restrictions within Licensed Premises

155 5.08.100 Alcohol Server Training Course Requirement

156 5.08.110 Operation of Licensed Premises

157 5.08.120 Restrictions on Purchase and Sale of Alcoholic Beverages

158 5.08.130 Sale to Intoxicated Persons

159 5.08.140 Eviction of Patrons

160 5.08.150 Permitting Consumption on Premises

161 5.08.160 Open Container

162 ~~5.08.170 Transportation of Alcohol~~

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163 ~~5.08.180 Keg Registration~~

164 5.08.190 Inspection of Premises

165 ~~5.08.200 Access for Enforcement~~

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166 5.08.210 Alcohol Offenses

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167 5.08.220 Penalties

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172 **5.08.010 Definitions.**

173 A. "Alcoholic Beverages" mean all spirituous, vinous, malt or other fermented or
174 distilled whatever the origin, that is intended for human consumption as a
175 beverage and that contains one-half of one (1) percent or more of alcohol by
176 volume, whether produced commercially or privately.

177

178 B. "Board" means the Alcoholic Beverage Control Board established under AS
179 04.06.010.

180

181 C. "Intoxicated Person" means a person whose physical or mental conduct is
182 substantially impaired as a result of the introduction of an alcoholic beverage
183 into the person's body and who exhibits those plain and easily observed or
184 discovered outward manifestations of behavior commonly known to be produced
185 by the overconsumption of alcoholic beverages.

186

187 D. "Licensed Premises" means any or all designated portions of a building or
188 structure, rooms or enclosures in the building or structure, or real estate leased,
189 used, controlled, or operated by a licensee in the conduct of business for which
190 the licensee is licensed by the ABC Board and the City at the specific address for
191 which the license is issued.

192

193 E. "Liquor License" means any of the licenses or permits described in AS 04.11.080

194

195 F. "Open containers" means any original container or package without the Internal
196 Revenue Service strip stamp intact upon such container or package; any
197 container or package that has been opened at least once since purchase or
198 manufacture; or any container or package containing an alcoholic beverage
199 other than the original container or package.

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201 G. "Person" means an individual, partnership, cooperative, association, joint
202 venture, corporation, estate trust, business, receiver, or any entity, group or
203 combination acting as a unit.

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H. ~~“School” means the physical building and/or grounds of an educational facility operated either publicly or privately in which are taught subjects commonly taught in throughout the State of Alaska.~~

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211 **5.08.020 Procedure for Administrative Review of License Applications.**

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- A. Upon receipt of notice from the Board of an application for the issuance, renewal, transfer of location or transfer to another person of a liquor license for a license location in the City, the clerk shall as soon as practicable distribute copies of the notice to the city manager, the city council and the city attorney.
- B. The city manager shall immediately refer the application for review as follows:
 - 1. To the planning director or their designee to determine if the applicant has complied with the Special Use provisions of BMC 16.20;
 - 2. To the finance director or their designee to determine whether the licensee or license transferee is delinquent in paying to the City any tax, assessment, business license fee, or fee or charge for utility service for the business and/or affiliate (as defined in 3 AAC 304.990) that operates or will operate, under the liquor license.
 - 3. To the police and fire chiefs to determine whether, in their opinion there have been excessive calls for service, excessive numbers of convictions or arrests for unlawful activity at the license location, police or ambulance reports, reports of unlawful activity at the license location, or police, fire or ambulance dispatches to the license location.
- C. The fire chief, police chief, planning director and finance director shall forward written statements to the city manager within fourteen (14) calendar days after the application was referred by the city manager.
- D. The city manager shall provide a written report to the city council, with a copy to the applicant, listing any objections to the Board’s issuance of the application. The city manager’s report is due within ~~not less than~~ twenty (20) days ~~but not more than thirty (30) days~~ after the date of receipt of notice from the city clerk.

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- 242 E. An applicant who believes the city manager's report contains factual errors shall
243 file a written protest outlining, with specifics, the sections of the report believed
244 to be factually incorrect. Such protest must be filed to the city manager not later
245 than ten (10) calendar days after issuance of the city manager report.
246
247 F. The city manager shall investigate the applicant's protest and shall issue a
248 written decision no later than seven (7) ~~ten (10)~~ calendar days after receipt of
249 the protest. Formatted: Strikethrough
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251 G. The city clerk shall place the matter of the application upon the city council
252 agenda not less than thirty (30) and not more than forty (40) calendar days
253 after the date of receipt from the Board;

254 **5.08.030 City Council Review of License.**

255 The city council shall determine whether to protest the issuance, renewal or transfer
256 of a liquor license application and shall consider the following factors it believes are
257 pertinent. Such factors shall include, but not be limited to:

- 258 1. City records indicating whether the applicant and/or transferor is in violation
259 of the city sales tax ordinances or regulations, has failed to comply with any
260 of the filing, reporting or payment provisions of the city ordinances or
261 regulations, or has any unpaid balance due on tax accounts for which the
262 applicant and/or transferor is liable;
- 263 2. The character and public interests of the surrounding neighborhood;
- 264 3. Actual and potential law enforcement problems;
- 265 4. ~~Whether the applicant can demonstrate prospective or continued compliance~~
266 ~~with a liquor server awareness training program approved by the Board, such~~
267 ~~as or similar to the program for techniques in alcohol management (T.A.M.);~~ Formatted: Strikethrough
- 268 5. The concentration of other licenses of the same and other types in the area;
- 269 6. ~~Whether the surrounding area experiences a high rate of alcohol abuse, crime~~
270 ~~or accidents in which the abuse of alcohol is involved;~~ Formatted: Strikethrough
- 271 7. ~~The adequacy of parking facilities;~~
- 272 8. The safety of ingress to and egress from the premises;
- 273 9. ~~Compliance with state and local fire, health and safety codes;~~ Formatted: Strikethrough
- 274 10. The degree of control the licensee has or proposes to have over the conduct
275 of the licensed business. In determining the applicant's demonstrated ability

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276 to maintain order and prevent unlawful conduct, the city council may consider
277 police reports, the appearance of a readily identifiable pattern or practice of
278 recurring violent acts or unlawful conduct on the licensed premises.
279 testimony presented before the council, written comments, or other evidence
280 deemed to be reliable and relevant to the purpose of this subsection;

281 11. Whether the applicant can demonstrate prospective or continued compliance
282 with operations procedures for licensed premises set forth in BMC section
283 5.08.110.

284 12. The proximity to a school or ~~church, senior citizen apartment~~
285 ~~housing/facilities~~, alcohol inpatient or outpatient treatment;

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286 13. ~~Any history of convictions of the applicants and affiliates of the applicants for:~~

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287 (a) ~~Any violation of AS Title 04;~~

288 (b) ~~Any violation of city ordinances;~~

289 14. ~~If application is made for the renewal or transfer of location or transfer of~~
290 ~~ownership of a license, the City shall consider whether the operator has~~
291 ~~engaged in a pattern of practices injurious to public health or safety, such as~~
292 ~~providing alcohol to minors or intoxicated persons, committing serious~~
293 ~~violations of state law relevant to public health or safety, or other actions~~
294 ~~within the knowledge and control of the operator which place the public~~
295 ~~health or safety at risk. In determining if a pattern or practices injurious to~~
296 ~~public health or safety exists, the city council may consider criminal~~
297 ~~convictions, credible proof of illegal activity even if not prosecuted, police~~
298 ~~reports, testimony presented before the council, or other evidence deemed to~~
299 ~~be reliable and relevant to the purpose of this subsection.~~

300 15. Any other factor the city council determines is relevant to a particular
301 application.

302 **5.08.40 Council Action on Liquor License Applications.**

303 A. ~~At the date and time set for consideration of the proposed application, the city~~
304 ~~council shall determine whether to protest the issuance, renewal, relocation or~~
305 ~~transfer of a license.~~

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307 B. If a ~~majority of the city council~~ member wishes ~~votes~~ to protest the application, a
308 resolution shall be prepared and introduced at the next regularly scheduled
309 council meeting or earlier if necessary to meet the requirements of AS 04.11.480.

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- 311 C. At least seven (7) calendar days prior to the council meeting, the city clerk shall
312 provide the applicant with:
313
314 1. A copy of the proposed resolution; and
315 2. Notice of the date and time when council will consider the resolution; and
316 3. Notice the applicant will have an opportunity, pursuant to 3 AAC
317 304.145(d), to appear before the council to defend the application.
318
319 D. A protest by the council under this section cannot be based in whole or in part
320 on police reports or other written materials available to the City but which were
321 not provided to the affected applicant before the public hearing on that protest.
322
323 E. At the conclusion of the public hearing, and any deliberation of the council, the
324 council may choose to:
325
326 1. Pass the resolution protesting to the Board the issuance, transfer or
327 renewal of the liquor license application; or
328 2. Recommend the license be approved with conditions; or
329 3. Take no action on the application.
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331 ~~**5.08.050 — Special Use Permit Required.**~~

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332 ~~Unless exempt, any use that includes the retail sale or dispensing of alcoholic beverages~~
333 ~~is permitted only by a special use permit as outlined in BMC section 16.20. The special~~
334 ~~use requirement applies only to the retail sale or dispensing of alcoholic beverages and~~
335 ~~not to related principal or accessory uses.~~

336 ~~**5.08.060 — Restriction on Location of Alcohol Sales.**~~

- 337 ~~A. No beverage dispensary or package store licensee may sell or offer to sell any~~
338 ~~alcoholic beverage within three hundred (300) feet of a church building or within~~
339 ~~three hundred (300) feet of any school grounds.~~
340
341 ~~B. No other type of premises licensed under AS 04.11.080 may sell or offer to sell~~
342 ~~any alcoholic beverage in or within two hundred (200) feet of a church building,~~
343 ~~school grounds, senior housing facility, or alcohol treatment facility.~~
344
345 ~~C. For purposes of this section, distance shall be measured by the most direct route~~
346 ~~of travel on the ground and shall be measured in the following manner:~~

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1. ~~From the main parking lot street entrance off of an established roadway 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, senior housing facility, alcohol treatment facility or to the nearest portion of the school grounds.~~

355 **5.08.070 Licensee Responsible for Employees' Actions on Premises.**

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- A. A licensee may neither knowingly allow agents or employees to violate this chapter or AS Title 04 or regulations adopted thereunder, or to recklessly or with criminal or civil negligence fail to act in accordance with the duties prescribed under AS 04.21.030 with the result that an agent or employee of the licensee violates a law, regulation or ordinance.
 - B. The licensee shall be responsible for all acts or omissions of the licensee's employees on the licensed premises. The licensee may be cited and prosecuted for all acts or omissions of employees which are committed on the licensed premises and which are in violation of this chapter; provided, however, that the prosecution of the licensee shall not prohibit the prosecution of the employee for acts or omissions committed by the employee in violation of any provision of this chapter.

369 **05.08.080 Hours and Days of Operation.**

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- A. Premises licensed under AS 4.11.080 for the service and consumption of alcoholic beverages shall be closed for the sale, service and consumption of alcoholic beverages between the hours of 1:00 a.m. 10:00 p.m. and 11:00 a.m. Monday through Friday, and between the hours of 2:00 a.m. and 11:00 a.m. 11:00 p.m. and 11:30 a.m. on Saturday or Sunday or on a legal holiday recognized by the state under AS 44.12.010 with the exception of New Year's Day during which the establishment shall close by at 1:00 3:00 am.
 - B. All other retail premises licensed under AS 4.11.080 shall be closed for the sale of alcoholic beverages between the hours of 11:00 p.m. and 11:00 a.m. 12:00 a.m. and 12:00 p.m. Monday through Friday, between the hours of 2:00 a.m. and 3:00 p.m. on Saturday, and between the hours of 2:00 a.m. and noon on Sunday.

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- C. A person may not sell, offer for sale, give, furnish, deliver or consume an alcoholic beverage on premises licensed under AS 04.11 during the hours of closure set forth in this section.
- D. A licensee, an agent, or employee may not permit a person to consume alcoholic beverages on the licensed premises between the hours of closure set forth in this section.
- ~~E. A licensee, an agent, or employee may not permit a person to enter and a person may not enter premises licensed under AS 04.11 during the hours of closure set forth in this section. This subsection does not apply to common carriers or to an employee of the licensee who is on the premises to prepare for that day's or the next day's business.~~
- F. As authorized by AS 04.16.070(b) the sale of alcoholic beverages on State and/or City Election Days is not prohibited.

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400 **5.08.090 Obligation to Enforce Restrictions within Licensed Premises.**

401 A licensee, their agent or employee may not permit the consumption of alcoholic
402 beverages by any person within the licensed premises unless it is permitted by the
403 license.

404 **5.08.100 Alcohol Server Training Course Requirement.**

- A. A licensee, their agent or employee may not sell or dispense alcoholic beverages to the public prior to the successful completion of a liquor server awareness training program approved by the Board.
- B. A licensee, their agent or employee who elects to take an approved program online, must have the examination proctored at the City of Bethel offices by a duly appointed employee of the City.
- C. Licensees, their agents and employee who sell or dispense alcoholic beverages must be able to show proof of completion of a liquor server awareness training program approved by the Board upon request by a peace officer, the city manager (or their designee) or the Board.

417 **5.08.110 Operation of Licensed Premises.**

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418 A. Except as otherwise provided in this section, the operations procedures set forth
419 in subsection B of this section shall apply to all persons seeking the issuance,
420 renewal or transfer of any license issued by the Board by virtue of AS Title 4 and
421 other applicable provisions of law allowing the sale or service of alcoholic
422 beverages. Subsections B1. of this section shall not apply to persons seeking the
423 issuance, transfer or renewal of licenses issued under AS Title 4 which do not
424 authorize the sale or service of alcoholic beverages for consumption on the
425 premises licensed.

426 ~~B. Persons seeking the issuance, transfer or renewal of licenses issued by the Board~~
427 ~~under AS Title 4 and other applicable provisions of law shall comply with the~~
428 ~~following operations procedures:~~

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429 1. ~~Happy Hours.~~ No licensee may:

430 i. ~~Sell more than one (1) drink for the price of a single alcoholic drink,~~
431 ~~or sell a drink with increased alcoholic content, or sell a multiple of~~
432 ~~any number of drinks in a manner which has the effect of selling~~
433 ~~more than one (1) drink for the price of a single drink.~~

434 ii. ~~Advertise, promote or put in public notice the giving of free~~
435 ~~alcoholic drinks to customers.~~

436 iii. ~~Advertise, promote or put in public notice the sale of alcoholic~~
437 ~~beverages at a reduced price at certain times of the day or days of~~
438 ~~the week. Nothing in this subsection shall prohibit a licensee from~~
439 ~~increasing prices during times when entertainment is provided.~~

440 iv. ~~This subsection shall not be construed to prohibit licensees from~~
441 ~~giving away or selling at a reduced price food items to customers~~
442 ~~and patrons.~~

443 2. *Public Transportation.* Licensees shall make available to their patrons access
444 to means of public transportation or ~~to~~ permit patrons to make arrangements
445 for transportation off the premises.

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446 3. *Notice of Penalties.* Operators shall place, at conspicuous locations within
447 licensed premises, a clear and legible sign describing applicable penalties for
448 driving under the influence, and for service or sale of alcoholic beverages to
449 minors or intoxicated persons.

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4. *Availability of Nonalcoholic Drinks.* Operators shall have nonalcoholic drinks available for their patrons.

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5. *Compliance Determination.* In order to determine whether applicants seeking the issuance, renewal or transfer of alcoholic beverage licenses have complied with the provisions of this chapter, applicants shall, at the request of the City, submit to the city manager (or their designee) an alcoholic beverage licensee compliance form. Upon request, operators shall also provide the city manager with certificates from all current employees demonstrating that those employees have successfully completed a liquor service awareness training program such as the program for techniques in alcohol management (T.A.M.) as approved by the Board.

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6. ~~*Solicitation of Purchase of Alcoholic Beverages for Consumption by Employee.*~~
~~A person employed by a licensee shall not solicit or encourage any patron of the licensed premises to purchase alcoholic beverages for consumption by the employee or by any other employee. For the purposes of this subsection, the term "employee" includes any contractual arrangement by which an individual provides services to the licensee, whether compensation be in the form of salary, commission, fee or otherwise.~~

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7. *Warning Signs for Impoundment and Forfeiture of Vehicles Seized Pursuant to an Arrest for or Charge of Driving Under the Influence or Refusal to Submit to Chemical Tests.* Upon adoption of a municipal code allowing for the forfeiture, operators shall display at conspicuous places in licensed premises two (2) signs warning that vehicles are seized in cases of driving under the influence or refusal to submit to chemical tests. One of these warning signs shall be at least eleven (11") inches by fourteen (14") inches in size, and must read, in lettering at least one-half (1/2") inch high and in contrasting colors or black and white, "DRIVE UNDER THE INFLUENCE—LOSE YOUR CAR." The sign described in the preceding sentence must carry a logo or illustration approved by the chief of police or their designee which shows an automobile being towed. The second warning sign shall be at least eleven (11") inches by fourteen (14") inches and must read, in letters at least one-quarter (1/4") inch high and in contrasting colors or black and white, "WARNING: IF YOU DRIVE UNDER THE INFLUENCE OR LET ANYONE DRIVE YOUR VEHICLE UNDER THE INFLUENCE, YOU WILL LOSE YOUR VEHICLE. The police SEIZE cars and trucks driven by intoxicated drivers. A vehicle will be IMPOUNDED for 30 days for the driver's first DUI offense. A vehicle will be FORFEITED if the driver has been convicted of DUI in the past ten (10) years."

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487 C. *Mandatory identification check in the retail sale of alcoholic beverages:* Licensee
488 or licensee's employee or agent shall require any purchaser (and anyone
489 accompanying the purchaser) of alcoholic beverages to produce a current
490 government-issued identification with birth date and photograph for identification
491 check prior to any on-premises sale. The purpose of the identification check is to
492 verify age and eligibility to purchase alcoholic beverages. Failure to conduct the
493 mandatory identification check required by this section is a violation of code and
494 the licensee or licensee's employee or agent failing to conduct the mandatory
495 identification check shall be subject to the civil penalty provisions of this chapter.
496 For purposes of mandatory identification check required by this section:

- 497 1. "*Current government-issued*" means a state, federal, tribal, or foreign
498 government picture identification in force and effect for a specified period
499 stated within the identification, when presented prior to expiration of the
500 period stated. A state government identification with birth date and
501 photograph issued by any state of the United States is included within the
502 meaning of "current government-issued" if the period of validity is specified
503 and the identification is presented prior to expiration of the period stated.
- 504 2. The subsequent invalidation of the identification as a bona fide government-
505 issued identification does not invalidate the compliance.
- 506 3. An ongoing pattern of non-compliance with the mandatory identification
507 check required by this code may result in review of the conditions of use or
508 may result in the revocation of a special use permit previously approved by
509 the city council. Action by the city council on licensee's special use permit
510 under this section shall be in addition to any criminal or civil penalty
511 applicable to the individual making the sale without performing the
512 mandatory identification check.

513 D. ~~*Security Personnel.* Package stores and bars shall have security personnel on~~
514 ~~the premises at all times that the premises are open to the public.~~

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515 E. *Security Cameras.* ~~At least two (2) twenty four (24) hour time lapse security~~
516 ~~cameras are required to be installed and properly maintained on the exterior of~~
517 ~~the building at locations licensed to sell and/or store alcoholic beverages. At~~
518 ~~least one (1) ~~two (2)~~ additional twenty-four (24) hour time lapse security~~
519 ~~cameras are is required to be installed and properly maintained in the interior of~~
520 ~~the building at all locations licensed to sell and/or store alcoholic beverages. ~~At~~~~
521 ~~least one of the interior The cameras must be able to capture all sales~~

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522 | transactions. ~~All criminal and suspicious activities recorded on the surveillance~~
523 | ~~equipment must be reported to law enforcement as soon as practicable.~~ To the
524 | extent allowed by law, the establishment operators may be required to provide
525 | any tapes or other recording media from the security camera to the Police
526 | Department.

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527 | F. *Premises to be cleared Upon Closing.* Upon closing, licensees shall clear alcoholic
528 | beverage establishment of all persons, other than necessary employees, within
529 | fifteen (15) minutes after the closing hours.

530 | G. *Age Limit Signs to be exhibited.* All licensees shall cause to remain displayed
531 | upon the premises and in the entrance to the premises of their establishments a
532 | conspicuous sign in a prominent place visible from outside the establishment,
533 | which shall in substance state: "No person under the age of 21 years permitted.
534 | Any such person will be prosecuted to the full extent of the law." Excepting that
535 | licensed establishments regularly serving meals may modify the sign in
536 | accordance with the provisions of this chapter and AS 04.

537 | **5.08.120 Restrictions on Purchase and Sale of Alcoholic Beverages.**

538 | A. A person licensed under AS 04.11.090 (Beverage Dispensary), 04.11.100
539 | (Restaurant or Eating Place), 04.11.110 (Club License), or 04.11.150 (Package
540 | Store) may not purchase, sell, or offer for sale an alcoholic beverage unless the
541 | alcoholic beverage being purchased, sold, or offered for sale was obtained from
542 | a person licensed under:

543 | 1. AS 04.11.160 (wholesale licenses) as a primary source of supply for the
544 | alcoholic beverage being purchased, sold, or offered for sale;

545 | 2. AS 04.11.150 (package store) and the alcoholic beverage being purchased,
546 | sold, or offered for sale was obtained from a person licensed under AS
547 | 04.11.160 (wholesale) as a primary source of supply; or

548 | 3. AS 04.11.130 (licensed brewery), 04.11.140 (licensed winery), or 04.11.170
549 | (licensed distillery).

550 | **5.08.130 Sale to Intoxicated Persons.**

551 | A. A licensee, his agent or employee may not knowingly or negligently:
552 | 1. Sell, give or barter alcoholic beverages to an intoxicated person;

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- 553 | ~~2. Allow another person to sell, give or barter an alcoholic beverage to an~~
554 | ~~intoxicated person within the licensed premises;~~
555 | 3. Allow an intoxicated person to enter and remain within the licensed
556 | premises or to consume an alcoholic beverage within the licensed
557 | premises; or
558 | 4. Permit an intoxicated person to sell or serve alcoholic beverages.

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559 **5.08.140 Eviction of Patrons.**

560 The licensee and employees of the licensee are expressly permitted to evict any person
561 suspected of being under the age of twenty-one (21) or intoxicated and failure of such
562 person to leave after oral request is unlawful and an offense on the part of that person.

563 **5.08.150 Open Container.**

- 564 A. It shall be unlawful to carry, transport or possess an open container of alcoholic
565 beverages on the public streets, sidewalks, alleys, parks, or other public places
566 throughout the city; except that an open container of alcoholic beverages may
567 be carried in a vehicle in a locked trunk or other secured location inaccessible to
568 the driver and passengers within the vehicle.
569 B. Open containers are permitted on private residential property, with the consent
570 of the owner or legal occupant of the property.

571 ~~**5.08.160 Transportation of Alcohol.**~~

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572 ~~—The transportation of alcoholic beverages by common carrier or commercial~~
573 ~~carrier within the City of Bethel to a residential home or non-licensed alcohol~~
574 ~~distribution facility is strictly prohibited except as expressly authorized by AS 04.~~

575 ~~**5.08.170 Keg Registration.**~~

- 576 ~~A. Obligations of seller. Any person who sells or offers for sale kegs or other~~
577 ~~containers containing four (4) gallons or more of alcoholic beverages, or leases~~
578 ~~kegs or other containers capable of holding four (4) gallons or more of alcoholic~~
579 ~~beverage to consumers who are not licensed under AS 04.11 shall, prior to~~
580 ~~surrendering physical possession of the keg or other container:~~
581 ~~1. Require the purchaser of the alcoholic beverages to sign a declaration and~~
582 ~~keg registration form for the keg or other container on a form approved by~~
583 ~~the chief of police. The form shall contain:~~

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- 584 i. ~~The name and address of the seller and the purchaser;~~
- 585 ii. ~~The type and identifying number of the identification presented by~~
586 ~~the purchaser pursuant to AS 04.21.050~~
- 587 iii. ~~A sworn statement, signed by the purchaser under penalty of~~
588 ~~perjury, stating that the purchaser is twenty one (21) years of age~~
589 ~~or older; will not allow persons under twenty one (21) years of age~~
590 ~~to consume the alcoholic beverages purchased pursuant to AS~~
591 ~~04.16.051, will not remove or obliterate or allow the removal or~~
592 ~~obliteration of the temporary registration tag affixed to the keg or~~
593 ~~other container, and will return the keg to the seller within the time~~
594 ~~constraints set by the seller;~~
- 595 iv. ~~The return date specified by the seller;~~
- 596 v. ~~The particular address or addresses where the alcoholic beverages~~
597 ~~will be consumed, and the date on which it will be consumed;~~
- 598 vi. ~~A warning that it is illegal to obscure or remove the registration~~
599 ~~tag; and~~
- 600 vii. ~~The unique identifier of the temporary tag attached to the keg or~~
601 ~~container as required under this section.~~
- 602 2. ~~Affix an approved temporary tag with a unique identifier to all containers over~~
603 ~~four (4) gallons or more of an alcoholic beverage prior to surrendering~~
604 ~~possession or control thereof to a consumer; and~~
- 605 3. ~~Require the purchaser to separately and prominently display a copy of the~~
606 ~~keg registration form within five (5) feet of the keg or other container while~~
607 ~~the keg or other container is in the purchaser's possession or control.~~
- 608 4. ~~Upon return of the keg or other container, the seller shall note the date~~
609 ~~thereof and the initials of the person who accepts the return.~~
- 610 5. ~~The licensee shall retain a copy of the keg registration form and receipt,~~
611 ~~which shall be retained on the licensed premises for a period of one (1) year.~~
612 ~~The records shall be available for inspection and copying by any peace~~
613 ~~officer, the city finance director or their designee, the Alcohol Beverage~~
614 ~~Control Board investigator or agent.~~

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- 615 ~~B. Obligations of purchaser. Any person who purchases or leases kegs or other~~
616 ~~containers containing four (4) gallons or more of alcoholic beverages shall:~~
- 617 ~~1. Sign a declaration and keg registration form for the keg or other container on~~
618 ~~a form provided by the seller pursuant to subsection A. of this section;~~
- 619 ~~2. Provide identification pursuant to AS 04.21.050;~~
- 620 ~~3. Be of legal age to purchase, possess, or use alcoholic beverages;~~
- 621 ~~4. Not allow any person under the age of 21 to consume the beverage except as~~
622 ~~provided by AS 04.16.051;~~
- 623 ~~5. Not remove, obliterate, or allow to be removed or obliterated, the~~
624 ~~identification required under subsection C. of this section;~~
- 625 ~~6. Return the keg or other container to the place of purchase no later than the~~
626 ~~date indicated on the identification tag required under this section;~~
- 627 ~~7. Not move, keep, or store the keg or its contents, except for transporting to~~
628 ~~and from the distributor, at any place other than that particular address~~
629 ~~declared on the keg registration form; and~~
- 630 ~~8. Separately and prominently display a copy of the keg registration form within~~
631 ~~five (5) feet of the keg or other container during the time that the keg or~~
632 ~~other container is in the purchaser's possession or control.~~
- 633 ~~C. Identification of containers.~~
- 634 ~~1. A keg registration form provided by licensees and approved by the Bethel~~
635 ~~police chief shall be properly completed by the licensee for sales and leases~~
636 ~~of kegs or other containers holding four (4) or more gallons of alcoholic~~
637 ~~beverages for off premises consumption, and shall contain:~~
- 638 ~~2. The keg registration form affixed to the keg or container may serve as the~~
639 ~~purchaser's receipt.~~
- 640 ~~3. Kegs or other containers holding four (4) gallons or more of alcoholic~~
641 ~~beverages shall have a properly completed keg registration form affixed~~
642 ~~thereon when sold for off premises consumption. Possession of a keg or~~
643 ~~other container which holds four (4) gallons or more of alcoholic beverages,~~
644 ~~other than on the seller's premises, without a properly completed registration~~

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645 ~~and declaration form either affixed thereon or in possession of the person~~
646 ~~with the keg(s) or other container holding four (4) or more gallons of~~
647 ~~alcoholic beverages shall be a violation of this chapter.~~

648 **5.08.180 Inspection of premises.**

- 649 A. The premises of licensees authorized to sell or distribute intoxicating liquor shall
650 be easily accessible for inspection by police officers during all regular hours of
651 the transaction of business upon the premises, and at any other time with
652 reasonable notice by the officer.
653
654 B. The police department may inspect any premises with an alcoholic beverage
655 license for compliance with conditions on the license. Upon discovering a
656 violation of such conditions, the police department shall submit a written report
657 of the violation to the city clerk for review by the city council and provide a copy
658 thereof to the licensee.
659
660 C. If at any time there appears to be a readily identifiable pattern or practice of
661 recurring violent acts or unlawful conduct in a licensed premise, the City may
662 send notice of possible protest to the licensee that he or she must submit and
663 implement a plan for remedial action or be in jeopardy that a protest will be filed
664 to any renewal, transfer of location or transfer of ownership sought by the
665 licensee.
666
667 D. Upon receiving a report of conditions violation, the city council may:
668
669 1. Revoke the premise's conditional use permit;
670
671 2. Protest the issuance, renewal, transfer, relocation or continued operation of
672 the license;
673
674 3. Recommend imposition of conditions on the state liquor license pursuant to
675 AS 04.11.480(c); or
676
677 4. Notify the Board that a licensee has violated conditions and request that an
678 accusation pursuant to AS 04.11.370 be brought against the licensee.
679
680 E. Prior to taking any of the actions listed in subsection c) of this section, the City
681 shall give the permittee or licensee notice and an opportunity to be heard on the
682 accusation(s) at a publicly noticed council meeting.

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683 **5.08.190 Access for Enforcement.**

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684 ~~A. The public entrance of licensed alcoholic beverage establishments shall be open~~
685 ~~and unlocked before and after the closing hour of such establishment if there are~~
686 ~~any patrons in the establishment.~~

687
688 ~~B. Licensees of licensed alcoholic beverage establishments, their employees and all~~
689 ~~patrons in such establishments shall permit and aid the entry of any law~~
690 ~~enforcement officer during all hours of operation and at any other time when~~
691 ~~there are two or more persons in such licensed alcoholic beverage establishment.~~

692 ~~C. Lack of knowledge, lack of intent and absence from the premises shall not be~~
693 ~~defenses to any action brought under this section against any such employee in~~
694 ~~charge of such establishment or such licensee.~~

695 ~~D. The following evidence shall constitute a prima facie case of violation of this~~
696 ~~section in any action under this section against any such employee in charge of~~
697 ~~such establishment or against any licensee:~~

698 ~~1. A law enforcement officer knocked heavily at the public entrance of a licensed~~
699 ~~beverage dispensary or licensed alcoholic beverage establishment and such~~
700 ~~entrance was not opened within one minute thereafter to permit his~~
701 ~~entrance; plus~~

702 ~~2. Evidence of sound emanating from the licensed alcoholic beverage~~
703 ~~establishment, heard by such officer, and his opinion that he concluded that~~
704 ~~two or more persons were in such establishment.~~

705 ~~E. Licensees shall provide the Police Chief with their current hours of operation. Any~~
706 ~~changes to the hours of operation shall be communicated, in writing, to the~~
707 ~~Police Chief, at least three (3) business days prior to the change being~~
708 ~~implemented.~~

709 **5.08.200 Alcohol Offenses.**

- 710 A. Violation of any section of this chapter shall be an infraction.
711 B. The Bethel Police Department shall have the authority to write and serve
712 citations for violations of the provisions of any portion of this chapter.

713 **5.08.210 Penalties.**

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Offense	BMC Section	Mandatory Court Appearance	Penalty Amount	
Premises Open during non-permissible hours	5.08.080A & B	No	1 st Offense: \$150 2 nd Offense: \$300 3 rd & subsequent offenses: \$700	
Premises Open during on non permissible days	5.08.080A & B	No	1st Offense: \$500 2nd Offense: \$700 3rd & subsequent offenses: \$1,000	Formatted: Strikethrough
Selling, Offering for Sale, Giving, Furnishing, Delivering or Consuming Alcohol on Premises during hours of Closure	5.08.080C	No	\$300	
Allowing person to consume alcohol on premises during hours of closure	5.08.080D	No	\$300	
Allowing non-employee onto premises during hours of closure	5.08.080E	No	\$300	Formatted: Strikethrough
Allowing consumption on premises in violation of license	5.08.090	No	\$500	
Selling or dispensing alcohol prior to successful completion of a liquor server awareness training program	5.08.100A	Yes	\$1,000	Formatted: Strikethrough
Allowing employee to sell or dispense alcohol prior to their successful completion of a liquor server awareness training program	5.08.100A	Yes	\$1,000	
Failure to show proof of successful completion of a liquor server awareness training program	5.08.100C	Correctable	\$300	
Violation of Happy Hour rules	5.08.110B1	No	\$300	Formatted: Strikethrough
Failure to provide access to means of public transportation to patrons <u>or permit patrons to arrange transportation off premises.</u>	5.08.110B2	No	<u>\$500</u> \$150	Formatted: Underline, Not Strikethrough Formatted: Strikethrough Formatted: Underline

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Failure to permit patron to arrange for transportation off premises	5.08.110B2	No	\$500	Formatted: Strikethrough
Failure to <u>properly</u> post <u>a required sign</u> clear and legible signs describing applicable penalties for DUI and for service of alcoholic beverages to minors or intoxicated persons	5.08.110B3	No	\$250	Formatted: Strikethrough
Failure to have non-alcoholic drinks available	5.08.110B4	No	\$150	
Failure to submit an alcoholic beverage compliance form upon request	5.08.110B5	No	\$300	
Solicitation by employee of the purchase of an alcoholic beverage for personal consumption by the employee	5.08.110B6	Yes	\$500	Formatted: Strikethrough
Failure to post warning signs for impoundment and forfeiture of vehicles seized pursuant to an arrest or charge of DUI or Refusal	5.08.110B7	No	\$250	Formatted: Strikethrough
Improper sized warning signs for impoundment and forfeiture of vehicles seized pursuant to an arrest or charge of DUI or Refusal	5.08.110B7	No	\$150	Formatted: Strikethrough
Failure to check identification of purchaser	5.08.110C	Yes	1 st Offense: \$500 2 nd Offense: \$700 3 rd & subsequent offenses: \$1,000	
Acceptance of non-conforming identification for purchase of alcoholic beverage	5.08.110C	Yes	1 st Offense: \$150 2 nd Offense: \$300 3 rd & subsequent offenses: \$700	
Failure to have security personnel on premises during hours of operation	5.08.110D	No	1st Offense: \$500 2nd Offense: \$700 3rd & subsequent offenses: \$1,000	Formatted: Strikethrough

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Failure to install or maintain security equipment	5.08.110E	Yes	1 st Offense: \$500 2 nd Offense: \$700 3 rd & subsequent offenses: \$1,000
Failure to report suspicious activity from security cameras to law enforcement	5.08.110E	No	1st Offense: \$150 2nd Offense: \$300 3rd & subsequent offenses: \$700
Interior camera not positioned to capture sales transactions	5.08.110E	Yes	1 st Offense: \$500 2 nd Offense: \$700 3 rd & subsequent offenses: \$1,000
Failure to clear premises after closing	5.08.110F	No	1 st Offense: \$150 2 nd Offense: \$300 3 rd & subsequent offenses: \$700
Failing to post age limit signs	5.08.150	No	\$300
Sale of alcoholic beverages improperly obtained	5.08.120	Yes	\$700
Sale of alcohol to an intoxicated person	5.08.130	Yes	1 st Offense: \$500 2 nd Offense: \$700 3 rd & subsequent offenses: \$1,000
Providing alcohol to an intoxicated person	5.08.130	Yes	1st Offense: \$500 2nd Offense: \$700 3rd & subsequent offenses: \$1,000
Allowing another person to sell or provide alcohol to an intoxicated person	5.08.130A2	Yes	1st Offense: \$500 2nd Offense: \$700 3rd & subsequent offenses: \$1,000
Allowing an intoxicated person to enter and remain within licensed premises	5.08.130A3	Yes	1 st Offense: \$150 2 nd Offense: \$300 3 rd & subsequent offenses: \$700

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Permitting intoxicated person to consume alcoholic beverage within a licensed premise	5.08.130A3	Yes	1 st Offense: \$500 2 nd Offense: \$700 3 rd & subsequent offenses: \$1,000	
Permitting an intoxicated person to sell or serve an alcoholic beverage	5.08.130A4	Yes	1 st Offense: \$500 2 nd Offense: \$700 3 rd & subsequent offenses: \$1,000	
Carrying, transporting or possessing an open container in public	5.08.150	No	1 st Offense: \$150 2 nd Offense: \$300 3 rd & subsequent offenses: \$700	
Transportation of alcohol by common carrier	5.08.160	Yes	1st Offense: \$500 2nd Offense: \$700 3rd & subsequent offenses: \$1,000	Formatted: Strikethrough
Transportation of alcohol by commercial carrier	5.08.160	Yes	1st Offense: \$500 2nd Offense: \$700 3rd & subsequent offenses: \$1,000	Formatted: Strikethrough
Failure to Require or complete keg registration form	5.08.170	No	1st Offense: \$150 2nd Offense: \$300 3rd & subsequent offenses: \$700	Formatted: Strikethrough
Incomplete keg registration form	5.08.170	No	1st Offense: \$150 2nd Offense: \$300 3rd & subsequent offenses: \$700	Formatted: Strikethrough
Failure to tag or improperly tagged keg	5.08.170	No	1st Offense: \$150 2nd Offense: \$300 3rd & subsequent offenses: \$700	Formatted: Strikethrough
Removal or damaging of tag on keg	5.08.170	No	\$500	Formatted: Strikethrough
Failure to display keg registration form	5.08.170	No	\$300	Formatted: Strikethrough
Failure to affix keg declaration form to keg	5.08.170	No	\$300	Formatted: Strikethrough

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Failure to retain keg declaration forms for one (1) year	5.08.170	No	\$500	Formatted: Strikethrough
Failure to make premises easily accessible for inspection by police officers	5.08.180A	Yes	\$700	
Failing to maintain premises unlocked while patrons are on premises	5.08.190A	Yes	\$1,000	
Failure to permit or aid the entry of law enforcement during hours of operation	5.08.190B	Yes	\$700	
Failure to permit or aid the entry of law enforcement any time there are two (2) or more persons on the premises	5.08.190B	Yes	\$700	Formatted: Strikethrough

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

ENACTED THIS ____ DAY OF (MONTH) 2015, BY A VOTE OF ____ IN FAVOR AND OPPOSED.

Richard Robb, Mayor

ATTEST:

Lori Strickler, City Clerk

Proposed amendment #1 definition of school

5.08.010 H

School means the physical building and/or grounds of an educational facility operated either publicly or privately open to the public in which are taught subjects commonly taught in throughout the State of Alaska, from which children regularly travel freely and may be exposed to the sale of alcohol, and which is recognized as a school by the State of Alaska.

#2 Conditional Use permit

5.08.020 B 1.

To the planning director or their designee to determine if the applicant has compiled with the Special Use provisions of BMC ~~16.20~~18.60 if necessary

#3 Council actions

5.08.40 E 2

Recommend the license to be approved with or without conditions; or...

#4

5.08.050 Special Use Permit

delete entire section

#5 Restrictions on Locations of sales

5.08.060 C 1.

From the main parking lot ~~street entrance off of an established roadway~~ entrance of the establishment from which alcoholic beverages are sold or offered for sale

#6

5.08.080 Hours and days of operation

... shall be closed for the sale, service and consumption of alcoholic beverages between the hours of ~~10:00pm and 11:00am~~ 1 am and 10 am Sunday through Thursday, , and between the hours of ~~11:00-pm and 11:30-am~~ 2 am and 10 am on Friday or Saturday or on a legal holiday...

#7

5.08.170 Keg registration: delete entire section

Recommendation from the Finance Committee

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5.08.100 Alcohol Server Training Course Requirement.

- A. A licensee, their agent or employee may not sell or dispense alcoholic beverages to the public prior to the successful completion of a liquor server awareness training program approved by the Board.
- B. A licensee, their agent or employee who elects to take an approved program online, must have the examination proctored at the City of Bethel offices by a duly appointed employee of the City.
- C. Licensees, their agents and employee who sell or dispense alcoholic beverages must be able to show proof of completion of a liquor server awareness training program approved by the Board upon request by a peace officer, the city manager (or their designee) or the Board.

Comment [c1]: Wants to add in: "Licensee, and/or permittee"

5.08.110 Operation of Licensed Premises.

Security Cameras. At least two (2) twenty-four (24) hour time lapse security cameras are required to be installed and properly maintained on the exterior of the building at locations licensed to sell and/or store alcoholic beverages. At least two (2) additional twenty-four (24) hour time lapse security cameras are required to be installed and properly maintained in the interior of the building at all locations licensed to sell and/or store alcoholic beverages. At least one of the interior cameras must be able to capture all sales transactions. All criminal and suspicious activities recorded on the surveillance equipment must be reported to law enforcement as soon as practicable. To the extent allowed by law, the establishment operators may be required to provide any tapes or other recording media from the security camera to the Police Department.

Comment [c2]: Insert "Security footage shall be retained by the operator for thirty days."

5.08.170 Keg Registration.

- A. Obligations of seller. Any person who sells or offers for sale kegs or other containers containing four (4) gallons or more of alcoholic beverages, or leases kegs or other containers capable of holding four (4) gallons or more of alcoholic beverage to consumers who are not licensed under AS 04.11 shall, prior to surrendering physical possession of the keg or other container:
 - 1. Require the purchaser of the alcoholic beverages to sign a declaration and keg registration form for the keg or other container on a form approved by the chief of police. The form shall contain:

Recommendation from the Finance Committee

- 38 i. The name and address of the seller and the purchaser;
- 39 ii. The type and identifying number of the identification presented by
40 the purchaser pursuant to AS 04.21.050
- 41 iii. A sworn statement, signed by the purchaser under penalty of
42 perjury, stating that the purchaser is twenty-one (21) years of age
43 or older; will not allow persons under twenty-one (21) years of age
44 to consume the alcoholic beverages purchased pursuant to AS
45 04.16.051, will not remove or obliterate or allow the removal or
46 obliteration of the temporary registration tag affixed to the keg or
47 other container, and will return the keg to the seller within the time
48 constraints set by the seller;
- 49 iv. The return date specified by the seller;
- 50 v. The particular address or addresses where the alcoholic beverages
51 will be consumed, and the date on which it will be consumed;
- 52 vi. A warning that it is illegal to obscure or remove the registration
53 tag; and
- 54 vii. The unique identifier of the temporary tag attached to the keg or
55 container as required under this section.
- 56 2. Affix an approved temporary tag with a unique identifier to all containers over
57 four (4) gallons or more of an alcoholic beverage prior to surrendering
58 possession or control thereof to a consumer; and
- 59 3. Require the purchaser to separately and prominently display a copy of the
60 keg registration form within five (5) feet of the keg or other container while
61 the keg or other container is in the purchaser's possession or control.
- 62 4. Upon return of the keg or other container, the seller shall note the date
63 thereof and the initials of the person who accepts the return.
- 64 5. The licensee shall retain a copy of the keg registration form and receipt,
65 which shall be retained on the licensed premises for a period of one (1) year.
66 The records shall be available for inspection and copying by any peace
67 officer, the city finance director or their designee, the Alcohol Beverage
68 Control Board investigator or agent.
- 69 B. Obligations of purchaser. Any person who purchases or leases kegs or other
70 containers containing four (4) gallons or more of alcoholic beverages shall:
- 71 1. Sign a declaration and keg registration form for the keg or other container on
72 a form provided by the seller pursuant to subsection A. of this section;

Comment [c3]: Strike this. Not necessary.

Comment [c4]: Strike this.

Recommendation from the Finance Committee

- 73 2. Provide identification pursuant to AS 04.21.050; Comment [c5]: Strike This. It's already understood that they would provide identification as they would be purchasing alcohol.
- 74 3. Be of legal age to purchase, possess, or use alcoholic beverages; Comment [c6]: Strike this.
- 75 4. Not allow any person under the age of 21 to consume the beverage except as
- 76 provided by AS 04.16.051; Comment [c7]: Strike this.
- 77 5. Not remove, obliterate, or allow to be removed or obliterated, the
- 78 identification required under subsection C. of this section;
- 79 6. Return the keg or other container to the place of purchase no later than the
- 80 date indicated on the identification tag required under this section; Comment [c8]: Strike this.
- 81 7. Not move, keep, or store the keg or its contents, except for transporting to
- 82 and from the distributor, at any place other than that particular address
- 83 declared on the keg registration form; and
- 84 8. Separately and prominently display a copy of the keg registration form within
- 85 five (5) feet of the keg or other container during the time that the keg or
- 86 other container is in the purchaser's possession or control. Comment [c9]: Strike This. This is a duplicate of line 602.

Failure to display keg registration form	5.08.170	No	\$300
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Comment [c10]: Remove

87

Suggested modifications to Ordinance 15-32 from the City Clerk

Under 5.08.100 insert permittee to include those applying for a Caterer's permit, Special events permit, and Conditional contractor's permit

5.08.100 Alcohol Server Training Course Requirement.

- A. A licensee/permittee, their agent or employee may not sell or dispense alcoholic beverages to the public prior to the successful completion of a liquor server awareness training program approved by the Board.
- B. A licensee/permittee, their agent or employee who elects to take an approved program online, must have the examination proctored at the City of Bethel offices by a duly appointed employee of the City.
- C. Licensees/permittee, their agents and employee who sell or dispense alcoholic beverages must be able to show proof of completion of a liquor server awareness training program approved by the Board upon request by a peace officer, the city manager (or their designee) or the Board.

8.35.410 - Intoxicated persons on roadway.

A. It is unlawful for any person to be upon any public street, road, or highway while intoxicated in such a manner as to be hazardous to motor vehicle traffic.

B. Violation of this section is a minor offense punishable as set forth in the minor offenses fine schedule.

(AO No. 2014-42, § 4, 6-21-14)

8.35.416 - Prohibited acts regarding alcohol consumption, sales and distribution corresponding to and adopted from Alaska Statutes.

A. The following sections described herein are intended to reflect the Alaska Statutes Title 4, chapter 16, as it currently exists and as may exist or be amended hereafter. The specific sections iterated in this chapter 8.35.416 which proscribe misdemeanor criminal and minor offense penalties regarding alcohol possession, consumption, sales and distribution are hereby adopted and incorporated in the Anchorage Municipal Code as they currently exist and as may exist or be amended hereafter. The digits of the section numbers after the title and chapter digits are 416 to indicate the section is adopted from Alaska Statutes Title 4, Chapter 16, followed by the corresponding section numbering of the statute section adopted by the code section; i.e., section 8.35.416.015 refers to the code section which corresponds to and adopts AS 04.16.015.

B. Sections of Alaska Statutes Title 4, Chapter 16, which relate to alcohol sales and distribution in areas of the state opting out of alcohol sales are not included in this section. Code section numbers, intended to mirror state code, may skip certain state statutes due to the omission of sections relating to dry areas of the state or regulating felony level offenses. Those offenses omitted here are not punishable under this Code.

C. If any section numbered beginning with 8.35.416 of this chapter is in conflict or inconsistent with the corresponding section of AS 04.16, the state statute shall govern; provided that the municipality may prosecute the offense under the code section with the statute section incorporated by reference.

D. All terms in this chapter are given the definitions assigned to them in AS 04.21.080, or as defined in sections of AS 04.16 corresponding to the offenses in 8.35.416, unless otherwise expressly provided herein. (AO No. 2014-42, § 4, 6-21-14)

8.35.416.010 - Hours of sale and presence on licensed premises (standard closing hours).

A. A person may not sell, offer for sale, give, furnish, deliver, or consume an alcoholic beverage on premises licensed under AS 04.11 during the hours of closure set forth in section 10.50.010.

B. A licensee, an agent, or employee may not permit a person to consume alcoholic beverages on the licensed premises between the hours of closure set forth in section 10.50.010.

C. A licensee, an agent, or employee may not permit a person to enter and a person may not enter premises licensed under AS 04.11 during the hours of closure set forth in section 10.50.010. This subsection does not apply to common carriers or to an employee of the licensee who is on the premises to prepare for the next day's business. A person may enter or remain on the premises of a bona fide restaurant or eating place licensed under AS 04.11 to consume food or nonalcoholic beverages.

D. Violation of this section is a class A misdemeanor. (AO No. 2014-42, § 4, 6-21-14)

8.35.416.015 - Pricing and marketing of alcoholic beverages.

A. On premises where alcoholic beverages are sold by the drink, a licensee or a licensee's agent or employee may not:

1. Offer or deliver, as a marketing device to the general public, free alcoholic beverages to a patron;
2. Deliver an alcoholic beverage to a person already possessing two or more;
3. Sell, offer to sell, or deliver alcoholic beverages to a person or group of persons at a price less than the price regularly charged for the beverages during the same calendar week, except at private functions not open to the general public;
4. Sell, offer to sell, or deliver an unlimited number of alcoholic beverages to a person or group of persons during a set period of time for a fixed price;
5. Sell, offer to sell, or deliver alcoholic beverages to a person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not open to the general public;
6. Encourage or permit an organized game or contest on the licensed premises that involves drinking alcoholic beverages or the awarding of alcoholic beverages as prizes.

B. A licensee or a licensee's agent or employee may not advertise or promote in any way, either on or off the premises, a practice prohibited under subsection A.

C. This section may not be construed as prohibiting a licensee or a licensee's agent or employee from offering free food or entertainment at any time, from serving wine by the bottle or carafe or beer by the pitcher with or without meals, or from including an alcoholic beverage as part of a meal package.

D. Notwithstanding A. and B. of this section, a licensee or a licensee's agent or employee when acting as a caterer may offer or deliver free alcoholic beverages to a political, charitable, or educational group or organization.

E. Violation of this section is a class A misdemeanor. (AO No. 2014-42, § 4, 6-21-14)

8.35.416.020 - Solicitation of alcoholic beverages; purchase on behalf of another.

A. A person may not pay or receive from another a salary, percentage, or commission to solicit or encourage a patron of licensed premises to purchase alcoholic or other beverages for a person other than the patron.

B. A licensee, an agent, or employee may not knowingly permit a person to loiter within or about premises licensed under AS 04.11 for the purpose of begging or soliciting a patron or visitor to purchase alcoholic or other beverages for the person who is begging or soliciting.

C. Violation of this section is a Class A misdemeanor. (AO No. 2014-42, § 4, 6-21-14)

8.35.416.025 - Illegal presence on premises involving alcoholic beverages.

A. A person may not knowingly enter or remain on premises:

1. In which alcoholic beverages are manufactured, sold, offered for sale, possessed for sale or barter, trafficked in, or bartered in violation of

- a. AS 04.11.010; or

b. Any section of this code adopted under AS 04.21.010(a) or (b); or

2. Licensed under AS 04.11 during hours in which the person's presence on the premises is a violation of section 10.50.010 of this code or other municipal ordinance adopted under authority of AS 04.16.010(d) providing for hours of closure that are outside the hours of closure prescribed by AS 04.16.010(c).

B. Violation of this section is a minor offense punishable as set forth on the minor offenses fine schedule.

(AO No. 2014-42, § 4, 6-21-14)

8.35.416.030 - Prohibited conduct related to drunken persons.

A. A licensee, an agent, or employee may not with criminal negligence

1. Sell, give, or barter alcoholic beverages to a drunken person;

2. Allow another person to sell, give, or barter an alcoholic beverage to a drunken person within licensed premises;

3. Allow a drunken person to enter and remain within licensed premises or to consume an alcoholic beverage within licensed premises; or

4. Permit a drunken person to sell or serve alcoholic beverages.

B. A person receiving compensation for transporting alcoholic beverages may not knowingly deliver alcoholic beverages to a drunken person.

C. Violation of this section is a class A misdemeanor. (AO No. 2014-42, § 4, 6-21-14)

8.35.416.040 - Access of drunken persons to licensed premises.

A. A drunken person may not knowingly enter or remain on premises licensed under AS 04.11.

B. Violation of this section is a class A misdemeanor. (AO No. 2014-42, § 4, 6-21-14)

8.35.416.045 - Obligation to enforce restrictions on licensed premises.

A. A licensee, an agent, or employee may not permit the consumption of alcoholic beverages by any person within licensed premises unless it is permitted by the license.

B. Violation of this section is a class A misdemeanor. (AO No. 2014-42, § 4, 6-21-14)

8.35.416.047 - Access of persons with restriction on purchasing alcohol.

A. A person who is restricted from purchasing alcohol under AS 04.16.160 or section 8.35.416.160 may not knowingly enter or remain in premises licensed under AS 04.11 to obtain or consume alcohol.

B. A licensee may bring a civil action against a person who violates this section if the violation occurs on the premises of that licensee. If judgment is entered in favor of the licensee, the court shall award civil damages in the amount of \$1,000.00 and award reasonable costs and reasonable attorney fees allowed under the Alaska Rules of Civil Procedure.

C. Nothing in this section, section 8.35.416.160 or AS 04.16.160 creates a duty or imposes an obligation on a licensee to physically check the identification of any person entering licensed premises.

D. Violation of this section is a class A misdemeanor. (AO No. 2014-42, § 4, 6-21-14)

8.35.416.049 - Access of persons under the age of 21 to licensed premises.

A. A person under the age of 21 years may not knowingly enter or remain in premises licensed under AS 04.11 unless:

1. Accompanied by a parent, guardian, or spouse who has attained the age of 21 years;
2. The person is at least 16 years of age, the premises are designated by the board as a restaurant for the purposes of this section, and the person enters and remains only for dining; or
3. The person is under the age of 16 years, is accompanied by a person over the age of 21 years, the parent or guardian of the underaged person consents, the premises are designated by the board as a restaurant for the purposes of this section, and the person enters and remains only for dining.

B. Notwithstanding section 8.35.416.049 A., a licensee or an agent or employee of the licensee may refuse entry to a person under the age of 21 years to that part of licensed premises in which alcoholic beverages are sold, served, or consumed, may refuse service to a person under the age of 21 years, or may require a person under the age of 21 years to leave the portion of the licensed premises in which alcoholic beverages are sold, served, or consumed.

C. Notwithstanding any other provision in this section, a person 16 or 17 years of age may enter and remain within the licensed premises of a hotel, restaurant, or eating place in the course of employment if (1) the employment does not involve the serving, mixing, delivering, or dispensing of alcoholic beverages; (2) the person has the written consent of a parent or guardian; and (3) an exemption from the prohibition of AS 23.10.355 is granted by the Department of Labor and Workforce Development. The board, with the approval of the municipal assembly and at the licensee's request, shall designate which premises are hotels, restaurants, or eating places for the purposes of this subsection.

D. Notwithstanding any other provision in this section, a person 18, 19, or 20 years of age may be employed within the licensed premises of a hotel, restaurant, or eating place, may enter and remain within those premises for the purpose of employment, but may not, in the course of employment, sell, serve, deliver, or dispense alcoholic beverages.

E. A licensee may bring a civil action against a person who violates this section if the violation occurs on the premises of that licensee. If judgment is entered in favor of the licensee, the court shall award civil damages in the amount of \$1,500.00 and award reasonable costs and reasonable attorney fees allowed under the Alaska Rules of Civil Procedure.

F. A person under 21 years of age does not violate this section if the person enters or remains on premises licensed under AS 04.11 at the request of a peace officer, if the peace officer accompanies, supervises, or otherwise observes the person's entry or remaining on premises, and the purpose for the entry or remaining on premises is to assist in the enforcement of this section.

G. Violation of this section is a class A misdemeanor. (AO No. 2014-42, § 4, 6-21-14)

8.35.416.050 - Alcohol possession, control, or consumption by persons under the age of 21.

A. A person under the age of 21 years may not knowingly consume, possess, or control alcoholic beverages except those furnished persons under AS 04.16.051(b).

B. A person who violates subsection A. and who has not been previously convicted or received a suspended imposition of sentence under Subsection B.1. is guilty of minor consuming or in possession or

control. Minor consuming or in possession or control is not a misdemeanor. Upon conviction in the district court, the court:

1. May grant a suspended imposition of sentence under AS 12.55.085 and place the person on probation for up to one year if the person has not been convicted of a violation of this Subsection or AS 04.16.050(b) previously; among the conditions of probation, the court shall, with the consent of a community diversion panel, refer the person to the panel, and require the person to comply with conditions set by the panel, including counseling, education, treatment, community work, and payment of fees; in this paragraph, "community diversion panel" means a youth court or other group selected by the court to serve as a sentencing option for a person convicted under this section; or

2. Shall impose a fine of at least \$200.00 but not more than \$600.00, shall require the person to attend alcohol information school if the school is available, and shall place the person on probation for up to one year under subsection E.; the court may suspend a portion of the fine imposed under this paragraph that exceeds \$200.00 if the person is required to pay for education or treatment required under subsection E.

C. A person is guilty of repeat minor consuming or in possession or control if the person was previously granted a suspended imposition of sentence under subsection B.1. or AS 04.16.050(b)(1), has a prior conviction under subsection B.2. or AS 04.16.050(b)(2), or has been previously convicted once, and the person violates subsection A. Repeat minor consuming or in possession or control is not a misdemeanor. Upon conviction in the district court, the court shall

1. impose a fine of \$1,000.00 and require at least 48 hours of community work;
2. revoke the person's driver's license for three months;
3. take possession of the person's driver's license; and
4. suspend up to \$500.00 of the fine and place the person on probation for up to one year under subsection E.

D. A person is guilty of habitual minor consuming or in possession or control if the person has a prior conviction under subsection C., or has been previously convicted two or more times, and the person violates subsection A. Habitual minor consuming or in possession or control is a class B misdemeanor. Upon conviction, the court may impose an appropriate period of imprisonment and fine and place the person on probation under subsection E. for one year, or until the person is 21 years of age, whichever is later, and shall:

1. Impose at least 96 hours of community work;
2. Revoke the person's driver's license for six months;
3. Within five working days, notify the agency responsible for the administration of motor vehicle laws of the revocation; and
4. Take possession of the person's driver's license.

E.

The court shall place a person sentenced under subsections B.2, C. or D. on probation for the appropriate period. The person may not refuse probation. The court may require the person to pay for and enroll in a juvenile alcohol safety action program, if one is available. The court shall impose the following conditions of probation:

1. The person shall pay for and successfully complete any education or treatment recommended;
2. The person may not consume inhalants or possess or consume controlled substances or alcoholic beverages, except as provided in AS 04.16.051(b);
3. The person shall timely complete any community work ordered, as provided in subsection F.; and
4. Other conditions the court considers appropriate.

F. A person ordered to perform community work under this section shall perform the work within 120 days of the entry of judgment for a conviction. The court may expand the time period for up to 30 days upon a showing of good cause. The person shall submit verification of completion of community work to the clerk of court on a form provided by the court. If the verification is not provided within the time period required by this subsection, the court shall, within 30 days, schedule further proceedings in the case to determine whether a violation of probation has occurred.

G. The treatment recommended by a juvenile alcohol safety action program for a person placed on probation under subsection E. may include a period of inpatient treatment if the judgment specifies the maximum period of inpatient treatment authorized. A person who has been recommended for inpatient treatment may make a written request to the sentencing court for review of the referral. A person shall make a request for review within seven days after the recommendation and shall specifically set out the grounds upon which the request for review is based. The court may order a hearing on the request for review.

H. The juvenile alcohol safety action program to which a person is referred under this section shall inform the court or a minor's juvenile probation officer if the person fails to submit to evaluation or fails to complete successfully any education or treatment recommended. If the court finds that the person has failed to perform community work as ordered, to submit to evaluation, or to complete successfully the education or treatment recommended, the court may impose the suspended fine, and may impose any period of suspended incarceration. If the person was convicted under subsection C. or D, the court shall revoke the person's driver's license for an additional six months beyond the revocation imposed under subsection C. or D. A court revoking a person's driver's license under this subsection shall notify the agency responsible for the administration of motor vehicle laws of the revocation within five working days.

I. When considering the financial resources of a minor for purposes of determining eligibility for court-appointed counsel under this section, the court shall consider the resources of both the defendant and the defendant's parent or guardian, unless the court finds good cause to treat the defendant's or the defendant's parent's or guardian's resources as being unavailable to the defendant.

J. A driver's license revocation under this section is consecutive to a revocation imposed under another provision of law, but is concurrent with a revocation under another provision of law based on a prior conviction, adjudication of delinquency, or informal adjustment under AS 47.12.060.

K. Notwithstanding subsections B., C. and E., a person sentenced under subsection B. or C. may make a motion to the court to terminate probation of that person before the end of the probationary period required under those subsections. The court may grant the motion if the court finds, by clear and convincing evidence, that:

1. The person completed any community work ordered under Subsection F.;
2. The person has successfully completed any education or treatment program ordered by the court and, if required by the court, has either:

a. Paid for the programs; or

b. Made a good faith effort to pay for the programs, agreed to have the debt reduced to a civil judgment, entered into a repayment plan with the provider or the state, and agreed that the civil judgment may be enforced in the manner provided for restitution and fines in AS 12.55.051;

3. The person has either:

a. Paid the fine; or

b. Made a good faith effort to pay the fine, agreed to have the remaining fine amount reduced to a civil judgment, entered into a plan with the state, and agreed that the civil judgment may be enforced in the manner provided for restitution and fines in AS 12.55.051; and

4. The person has substantially complied with the other conditions of probation.

L. In this section,

1. "Driver's license" has the meaning given in AS 28.90.990;

2. "Previously convicted" means a conviction or an adjudication as a delinquent for a violation of AS 11.71, AS 28.35.030, 28.35.032, 28.35.280—28.35.290, or a violation of code section 8.35.010 (controlled substances), section 9.28.020 (operating under the influence), section 9.28.022 (refusal to submit to chemical tests), section 9.28.060 (minor operating a vehicle after consuming alcohol), section 9.28.070 (minor's refusal to submit to chemical test), section 9.28.080 (minor driving during the 24 hours after being cited for alcohol or breath test offenses), or a law or ordinance of another jurisdiction with substantially similar elements. (AO No. 2014-42, § 4, 6-21-14)

8.35.416.052 - Furnishing of alcoholic beverages to persons under the age of 21 by licensees.

A. A licensee or an agent or employee of the licensee may not with criminal negligence:

1. Allow another person to sell, barter, or give an alcoholic beverage to a person under the age of 21 years within licensed premises;

2. Allow a person under the age of 21 years to enter and remain within licensed premises except as provided in section 8.35.416.049;

3. Allow a person under the age of 21 years to consume an alcoholic beverage within licensed premises;

4. Allow a person under the age of 21 years to sell or serve alcoholic beverages;

5. While working on licensed premises, furnish or deliver alcoholic beverages to a person under the age of 21 years.

B. Violation of this section is a class A misdemeanor. (AO No. 2014-42, § 4, 6-21-14)

8.35.416.055 - Room rental for purposes of consuming alcoholic beverages.

A.

A person may not rent a room in a hotel, motel, resort, or similar business for the purpose of providing alcoholic beverages to a person under the age of 21 years.

B. Violation of this section is a class A misdemeanor. (AO No. 2014-42, § 4, 6-21-14)

8.35.416.057 - Permitting minor to illegally possess liquor in dwelling.

A. Except as provided by AS 04.16.051, a person who is physically in possession and exercising dominion and control over a dwelling may not knowingly permit a person under 21 years of age to possess an alcoholic beverage in the dwelling.

B. Violation of this section is a minor offense punishable as set forth on the minor offenses fine schedule.

(AO No. 2014-42, § 4, 6-21-14)

8.35.416.060 - Purchase by or delivery to persons under the age of 21.

A. A person under the age of 21 years may not purchase alcoholic beverages or solicit another to purchase alcoholic beverages for the person under the age of 21.

B. A person may not influence the sale, gift, or service of an alcoholic beverage to a person under the age of 21 years, by misrepresenting the age of that person.

C. A person may not order or receive an alcoholic beverage from a licensee, an agent or employee of the licensee, or another person, for the purpose of selling, giving, or serving it to a person under the age of 21 years.

D. A person under the age of 21 years may not enter licensed premises where alcoholic beverages are sold and offer or present to a licensee or an agent or employee of the licensee a birth certificate or other written evidence of age, that is fraudulent or false or that is not actually the person's own, or otherwise misrepresent the person's age, for the purpose of inducing the licensee or an agent or employee of the licensee to sell, give, serve, or furnish alcoholic beverages contrary to law.

E. A person under the age of 21 who is seeking to enter and remain in a licensed premises under section 8.35.416.049 A.2. or 3. or equivalent state statute may not misrepresent the person's age or having obtained the consent of the parent or guardian required by that section.

F. A person does not violate this section if the person performs an act proscribed under this section, the person performs that act at the request of a peace officer, the peace officer accompanies, supervises, or otherwise observes the person's act, and the purpose of the act is to assist in the enforcement of this section.

G. Violation of this section is a class A misdemeanor. (AO No. 2014-42, § 4, 6-21-14)

8.35.416.080 - Sales or consumption at school events.

A. A person may not sell or consume alcoholic beverages during a school event at the site of the event.

B. Violation of this section is a class A misdemeanor. (AO No. 2014-42, § 4, 6-21-14)

8.35.416.090 - Prohibition of bottle clubs.

A. A person may not maintain a place in which alcohol beverages are received or kept, or to which alcoholic beverages are brought, for consumption by members of the public or by members of a club, corporation, or association, unless the person is authorized to do so under AS 04.11.

B. A person may not maintain, operate, or lease premises for the purpose of providing, for a consideration, a place for drinking alcoholic beverages by members of the public or other persons, unless the person is authorized to do so under AS 04.11.

C. For the purposes of this section, "consideration" includes but is not limited to cover charge, the sale of food, ice, mixers, or other liquids used with alcoholic beverage drinks, or the furnishing of glassware or other containers for use in the consumption of alcoholic beverages.

D. Violation of this section is a class A misdemeanor. (AO No. 2014-42, § 4, 6-21-14)

8.35.416.100 - Restriction on size of containers.

A. A person may not sell alcoholic beverages in 1 / 6 gallon or 1 / 10 gallon containers, nor may a person sell alcoholic beverages in a container deceptively similar in appearance to a container of a different volume.

B. Violation of this section is a class A misdemeanor. (AO No. 2014-42, § 4, 6-21-14)

8.35.416.110 - Sale of certain alcoholic beverages prohibited.

A. A person may not sell an alcoholic beverage if it:

1. Is intended for human consumption and is in powdered form; or
2. Contains more than 76 percent alcohol by volume.

B.

Violation of this section is a class A misdemeanor. (AO No. 2014-42, § 4, 6-21-14)

8.35.416.120 - Removal or introduction of alcoholic beverages.

A. A person may not remove from licensed premises alcoholic beverages that have been sold or furnished for consumption only on the premises.

B. Except as provided in this subsection, a person may not bring an alcoholic beverage into licensed premises for use or consumption by oneself or another person on the premises unless that person is a licensee, an agent, employee, or common carrier in the regular course of employment. With the permission of the licensee, a person may bring wine into premises licensed as a beverage dispensary or a restaurant or eating place for consumption by the person while eating food served at a table on the licensed premises. The beverage dispensary or restaurant or eating place may charge a corkage fee for serving wine supplied by a customer.

C. Notwithstanding subsection A., a person may remove from licensed premises the unconsumed portion of one or more bottles of wine that were partially consumed with a meal if

1. The original or a similar type of cork is reinserted in each bottle by the licensee and the cork can only be removed by a corkscrew or other similar device; or
2. Each bottle is sealed or packaged by the licensee in a manner set by the board. Notwithstanding another provision of law, each bottle of wine that is recorked, sealed, or packaged as provided in this subsection is not an open container if the cork reinserted by the licensee or the seal made by the licensee has not been disturbed.

D. Violation of this section is a class A misdemeanor. (AO No. 2014-42, § 4, 6-21-14)

8.35.416.130 - Stock confined to licensed premises.

A. Unless authorized under AS 04.21.060, a licensee may not store before sale any alcoholic beverages elsewhere than on the premises indicated on the license.

B. This section does not apply to stocks of beer carried on a delivery truck by a licensed wholesaler if carried for the purpose of sale and delivery to persons licensed under AS 04.11 in quantities of not less than 10 gallons for each sale.

C. Violation of this section is a class A misdemeanor. (AO No. 2014-42, § 4, 6-21-14)

8.35.416.140 - Sale or consumption of alcoholic beverages in a warehouse.

A. Alcoholic beverages may not be sold or consumed on premises approved for storage under AS 04.21.060.

B. Violation of this section is a class A misdemeanor. (AO No. 2014-42, § 4, 6-21-14)

8.35.416.150 - Licensee responsible for violations.

A. A licensee may neither knowingly allow agents or employees to violate this title or AS Title 04 or regulations adopted thereunder, or to recklessly or with criminal negligence fail to act in accordance with the duty prescribed under AS 04.21.030 with the result that an agent or employee of the licensee violates a law, regulation or ordinance.

B. Violation of this section is a class A misdemeanor. (AO No. 2014-42, § 4, 6-21-14)

8.35.416.160 - Restriction on purchasing alcoholic beverages.

A. Except as otherwise provided by law, a person who is 21 years of age or older may not purchase alcoholic beverages if the person has been ordered to refrain from consuming alcoholic beverages under AS 12.55.015(a)(13) or as part of a sentence for conviction of a crime under AS 28.35.030, AS 28.35.032, section 9.28.020, section 9.28.022, or for conviction under a law of another jurisdiction with substantially similar elements, or as a condition of probation or parole from a conviction under AS 28.35.030, AS 28.35.032, section 9.28.020, section 9.28.022, or a conviction under a law of another jurisdiction with substantially similar elements. The restriction on purchasing alcoholic beverages applies during the period that the person is required to refrain from consuming alcoholic beverages under the sentence or condition of probation or parole.

B. A court imposing a restriction on a person under this section, and the Department of Corrections of the state, shall notify the person that an identification card issued under AS 18.65.310 must list the restriction imposed for the period of the person's probation or parole.

C. Violation of this section is a class A misdemeanor. (AO No. 2014-42, § 4, 6-21-14)

8.35.416.170 - Source of alcoholic beverages.

A. Alcoholic beverages for consumption by the purchaser may not be sold unless obtained from a person licensed under AS 04.11.

B. A person transporting alcoholic beverages into the municipality may not sell those alcoholic beverages to a person not licensed under AS 04.11, unless the alcoholic beverages are used for religious, industrial, pharmaceutical, or medical purposes.

C. Violation of this section is a class A misdemeanor. (AO No. 2014-42, § 4, 6-21-14)

8.35.416.172 - Restrictions on purchase and sale of alcoholic beverages.

A. A person licensed under AS 04.11.090, 04.11.100, 04.11.110, or 04.11.150 may not purchase, sell, or offer for sale an alcoholic beverage unless the alcoholic beverage being purchased, sold, or offered for sale was obtained from a person licensed under

1. AS 04.11.160 as a primary source of supply for the alcoholic beverage being purchased, sold, or offered for sale;

2. AS 04.11.150 and the alcoholic beverage being purchased, sold, or offered for sale was obtained from a person licensed under AS 04.11.160 as a primary source of supply; or

3. AS 04.11.130, 04.11.140, or 04.11.170.

B. Violation of this section is a class A misdemeanor. (AO No. 2014-42, § 4, 6-21-14)

8.35.416.175 - Furnishing alcoholic beverages in aid of gambling enterprise.

A. An agent or employee of a gambling enterprise may not furnish an alcoholic beverage to a player.

B. In this section, "gambling enterprise" and "player" have the meanings given them in AS 11.66.280.

C. Violation of this section is a class A misdemeanor.

8.20.010 Sale on election day.

The sale of intoxicating liquor is permitted within the city during election day for any federal, state or local election. (Ord. 74-3, 1974; Ord. 14-16 § 2 (part), 2014. Formerly 6.08.010.)

8.20.020 Hours of sale of intoxicating liquor.

A. For bar or eating establishments, alcohol sales will be prohibited between the hours of two a.m. Sunday morning until ten a.m. Monday morning. Alcohol sales will be prohibited between the hours of one a.m. to ten a.m. Tuesday through Friday. Alcohol sales will be prohibited between two a.m. Saturday morning and ten a.m. Saturday morning.

However, licensed bars and eating establishments may provide for alcohol sales on Super Bowl Sunday from twelve p.m. until nine p.m., and on New Year's Eve when the holiday falls on a Sunday from six p.m. until two a.m. the following Monday.

B. Packaged liquor stores shall be closed between the hours of nine p.m. and ten a.m., and on Sunday. (Ord. 97-5 § 1, 1997; Ord. 11-09 §§ 1, 2, 2012; Ord. 14-16 § 2 (part), 2014. Formerly 6.08.020.)

8.20.030 Protest of liquor licenses of establishments that sell beverages containing more than ninety percent alcohol.

A. The council finds that the sale of beverages containing more than ninety percent alcohol is a serious threat to public health and welfare.

B. The city shall protest the issuance, renewal or transfer of any liquor license for an establishment within the city unless the applicant notifies the city that it has not within the past thirty days, and will not in the future, sell beverages containing more than ninety percent, or one hundred eighty proof, alcohol.

C. The application for a liquor license for any establishment within the city that in fact sells beverages containing more than ninety percent, or one hundred eighty proof, alcohol after notifying the city that it would not do so shall also be protested.

D. The city manager is directed to take reasonable steps to ensure that this section is being enforced. Any establishment affected by this provision shall have the right to appear before the council at the public hearing and present evidence or arguments in its behalf.

E. Nothing in this chapter operates to prevent the city from protesting applications for liquor licenses on other reasonable grounds, as permitted by state law. (Ord. 90-04 § 1, 1990; Ord. 14-16 § 2 (part), 2014. Formerly 6.08.030.)

Chapter 4.01 - LOCAL BEVERAGE CONTROL BOARD

Sections:

4.01.010 - Established.

Pursuant to the local option change passed by the voters of Kotzebue on October 6, 2009 and certified by the city council on October 12, 2009, there is hereby established a local beverage control board, hereinafter LBCB, which shall set hours of operation, terms of operation and all other conditions, as allowed by law, for the operation of the city's delivery site, also known as a distribution site, for the delivery of alcoholic beverages being shipped to individuals residing in the city and for the sale of alcoholic beverages at any city-owned-and-operated liquor store, bar and/or restaurant, subject to review and approval by the city council.

(Ord. No. 10-02, § 2(Exh. A), 11-25-2009)

4.01.020 - Composition—Appointment—Qualifications.

The LBCB shall consist of seven members appointed by the mayor, subject to city council confirmation and serving at the pleasure of the city council. Each LBCB member shall be a qualified city voter, at least twenty-one years of age at the time of appointment, a resident of the city for at least one year at the time of appointment and have no convictions for any alcohol-related offenses as set out in Titles 4, 11 and 28 of the Alaska Statutes or any type of felony within the ten years preceding appointment to the LBCB. There shall be no specifically designated seats on the LBCB. However, appointments shall be made by the mayor and confirmed by the city council in such a manner as to provide diversity and expertise for the LBCB to properly perform its powers and duties as set out in Section 4.01.150, below, using the application process set forth in Section 4.01.040, below.

(Ord. No. 10-02, § 2(Exh. A), 11-25-2009)

4.01.030 - Term.

A LBCB member's term shall be three years and until a successor is appointed and qualified; provided, that the initial LBCB members shall draw lots to divide the membership substantially into thirds, to serve terms of one, two and three years, respectively, so that the terms of LBCB members will be staggered.

(Ord. No. 10-02, § 2(Exh. A), 11-25-2009)

4.01.040 - Application process for appointment.

Residents of the city of Kotzebue who desire to serve on the LBCB shall complete an application on the form(s) provided by the city of Kotzebue. Such form(s) shall be returned to the city clerk along with any attachments required thereto. Completed application form(s) shall be forwarded

to the mayor and city council for review, consideration and appointment as set out in Section 4.01.020, above.

(Ord. No. 10-02, § 2(Exh. A), 11-25-2009)

4.01.050 - Meetings—Absence from.

A. No LBCB member shall be absent from any meetings of the LBCB, except for good and sufficient reason.

B. The reason shall be submitted in writing and approved by the LBCB. In the event of an emergency when a request to be excused cannot be submitted in advance, the request to be excused shall be considered at the next regular meeting.

(Ord. No. 10-02, § 2(Exh. A), 11-25-2009)

4.01.060 - Vacancies.

A. A vacancy on the LBCB shall be filled as provided in Sections 4.01.020 and 4.01.140 for the remainder of the term of the former member.

B. A vacancy occurs when:

1. A confirmed appointee fails to qualify and assume the duties of the office within thirty days of confirmation;
2. A member departs the city intending to remain outside the city for sixty days or more;
3. A member submits a resignation accepted by the LBCB;
4. A member, due to incapacity or absence from the city, cannot attend LBCB meetings for sixty days or more;
5. A member is absent from three consecutive, regular LBCB meetings without the LBCB excusing any such absence.

(Ord. No. 10-02, § 2(Exh. A), 11-25-2009)

4.01.070 - Removal of LBCB members.

A. Sitting members of the LBCB may be removed by a duly-passed resolution of the LBCB with approval of such removal confirmed by a majority vote of the city council. The city council, on its own initiative and without action by the LBCB, may also remove, with or without cause, a member of the LBCB by a majority vote of the city council.

B. Grounds for removal may include, but are not limited to, malfeasance of the LBCB member, misconduct by the LBCB member in the performance of LBCB duties and responsibilities,

misconduct by the LBCB member unrelated to LBCB duties and responsibilities that make the member's continued service on the LBCB inappropriate and detrimental to the best interests of the LBCB, the city council and/or the city of Kotzebue, negligence in carrying out LBCB duties by the member or reasonable suspicion that the LBCB member has violated any criminal statute(s) of the state of Alaska.

(Ord. No. 10-02, § 2(Exh. A), 11-25-2009)

4.01.080 - Compensation.

LBCB

members shall be compensated as provided by resolution of the city council and may be reimbursed for reasonable expenses incurred in the performance of their duties as pre-approved by the LBCB and city manager.

(Ord. No. 10-02, § 2(Exh. A), 11-25-2009)

4.01.090 - Agenda.

A. All reports, communications, ordinances, resolutions, contract documents or other matters to be submitted to the LBCB for consideration shall be delivered to the LBCB, or its designee, seventy-two hours prior to the meeting. The agenda deadline will be at 12:00 p.m., noon, on the Monday prior to a Wednesday meeting for regular meetings, and twenty-four hours prior to meeting, for special meetings.

B. The chairman shall organize an agenda of such matters according to the order of business and each LBCB member shall receive a copy of the same.

(Ord. No. 10-02, § 2(Exh. A), 11-25-2009)

4.01.100 - Meetings—Quorum.

A. Regular Meeting. The LBCB shall hold a regular meeting at least once a quarter on the second Wednesday of the month selected for this regular, quarterly meeting. The meeting place shall be the city council chambers in Kotzebue. The meetings shall start at 5:00 p.m. Notice of the regular, quarterly meeting shall be posted at least seven days prior to the LBCB meeting. Any change in the time and/or place of a meeting shall be noticed at least forty-eight hours prior to said meeting. Four LBCB members constitute a quorum.

B. Special Meetings. Special meetings may be called by the chairman or at the request of two LBCB members upon not less than twenty-four hours' public notice. Written or oral notice shall be communicated to each member of the LBCB not less than twenty-four hours prior to the meeting. Quorum requirements for special meetings shall be the same as for regular meetings.

(Ord. No. 10-02, § 2(Exh. A), 11-25-2009; Ord. No. 13-02, § 4(Exh. C), 10-4-2012)

4.01.110 - Voting.

All LBCB actions shall be by vote, after a quorum is established. A minimum of four LBCB members must vote in favor of the proposed action in order for the action to become authorized.

(Ord. No. 10-02, § 2(Exh. A), 11-25-2009)

4.01.120 - Officers.

Annually, the LBCB shall select a chairperson and vice-chairperson from its membership. The chairperson shall preside at meetings of the LBCB and shall represent the LBCB as directed by its members. The vice-chairperson shall act in the absence of the chairperson.

(Ord. No. 10-02, § 2(Exh. A), 11-25-2009)

4.01.130 - Rules of procedure.

The LBCB, by resolution, may adopt its own written rules of procedure, consistent with this chapter, governing the conduct of its proceedings. In all matters of procedure not governed by such rules or this title, Robert's Rules of Order shall govern.

(Ord. No. 10-02, § 2(Exh. A), 11-25-2009)

4.01.140 - Rules, regulations and ordinances.

By a duly-adopted resolution, the LBCB shall recommend rules, regulations and ordinances for the establishment and operation of a city-owned-and-operated delivery site for the delivery of alcoholic beverages being shipped to individuals residing in the city and for the establishment and operation of a city-owned-and-operated liquor store, bar and/or restaurant and for the sale of alcoholic beverages at such facilities. All LBCB rules and regulations shall be reviewed and approved by the city council prior to implementation. Copies of all rules, regulations and non-code ordinances regarding the LBCB shall be available to the public in the office of the city clerk. All code ordinances shall be codified in the Kotzebue Municipal Code.

(Ord. No. 10-02, § 2(Exh. A), 11-25-2009)

4.01.150 - Powers and duties.

The LBCB shall, subject to city council review and approval, have powers and duties to the maximum extent possible, subject to available funding, and as allowed by local, state and federal law, in order to:

A. Establish and operate a designated site for the delivery of alcoholic beverages being shipped to individuals in the city of Kotzebue;

- B. Establish and operate a city-owned-and-operated liquor store, bar and/or restaurant licensed to serve beer and wine;
- C. Set hours of operation for the city-owned-and-operated facilities designated in subsections A. and B., above;
- D. Set the terms of operation for the city-owned-and-operated facilities designated in subsections A. and B., above;
- E. Set all other conditions for the city-owned-and-operated facilities designated in subsections A. and B., above;
- F. Set limits for the amount of alcoholic beverages that may be purchased from the city-owned-and-operated facilities designated in subsection B., above;
- G. Participate in the statewide database established by Alaska Statute 04.06.095;
- H. Monitor, to the extent possible and as funding is available, package store compliance with Alaska Statute 04.11.150 and report any violations to local and state law enforcement officials;
- I. Monitor, to the extent possible and as funding is available, personal importation limits as set out in Alaska Statute 04.11.491(f)(1) and Alaska Statute 04.16.125(b)(1) or as modified pursuant to Alaska Statute 04.21.010(a)(1) and report any violations to local and state law enforcement officials;
- J. Set all prices, fees and/or charges for alcoholic beverages delivered pursuant to subsection A., above, or purchased at the city-owned-and-operated facilities designated in subsection B., above;
- K. Ensure that all duly-imposed, city use and/or sales taxes are collected on all alcoholic beverages imported into the city through the delivery site or sold at the city-owned-and-operated liquor store, bar and/or restaurant;
- L. Prohibit the selling, giving or bartering of alcoholic beverages to a drunken person;
- M. Pursue civil actions under Alaska Statute 04.16.047 against persons who are restricted from purchasing alcohol under Alaska Statute 04.16.160;
- N. Enforce conditions of release, conditions of probation, conditions of parole or other such similar restrictions on the purchase or possession of alcoholic beverages imposed upon a person by a court or agency of competent jurisdiction;
- O. Recommend, if necessary, to the city council an ordinance that would set limits on the monthly amounts of alcoholic beverages a person may import into the city as permitted by Alaska Statute 04.21.010(a)(1);

P. Ensure that all city employees who sell or serve alcoholic beverages at any city-owned-and-operated liquor store, bar and/or restaurant or check identification of a patron at such facilities or delivers alcoholic beverages to persons at the city's delivery site shall have completed an alcohol server education course as set out in Alaska Statute 04.21.025; and

Q. Exercise all other powers and duties not specifically listed above and to adopt any and all rules, regulations and procedures, subject to city council review and approval, that are necessary and appropriate for the ownership, management and operation of the city-owned-and-operated facilities designated in subsections A. and B., above.

(Ord. No. 10-02, § 2(Exh. A), 11-25-2009)

4.01.160 - Rulemaking, resolutions and appeals.

A. Rulemaking. By resolution, the LBCB may adopt rules consistent with this title in order to conduct its business as set out in Section 4.01.130, above. Copies of these rules of procedure shall be available to the public in the office of the city clerk.

B. Resolutions. Acts of the LBCB that are required to be established by resolution shall be approved by a majority of the LBCB and signed by the chairman or vice-chairman of the LBCB.

C. Appeals. Any person or entity aggrieved by a decision of the LBCB may appeal the decision to the city council. Any decision of the LBCB is deemed final unless an appeal is filed within fifteen calendar days of the date of the LBCB decision with the city clerk. The notice of appeal must specifically state the reason for the appeal, relief sought and include payment of any appeal fee, if required. The city council shall hear and provide a decision on the appeal based upon the record developed before the LBCB and argument presented to the city council. No new evidence may be presented to the city council during the appeal process. The decision of the city council on the appeal shall be deemed final unless a timely appeal is filed with the Superior Court, Second Judicial District in Kotzebue, Alaska.

(Ord. No. 10-02, § 2(Exh. A), 11-25-2009)

4.01.170 - Conflicts of interest.

A LBCB member shall not participate in deliberation or vote on a matter if:

A. The LBCB member or a member of his/her immediate family has a substantial financial interest in any matter before the LBCB; or

B. If it is foreseeable that the LBCB member or a member of his/her immediate family could profit in any material way through a favorable or unfavorable decision of the LBCB.

C. "Substantial financial interest" or "profit in any material way," for purposes of this section are a financial interest or profit that could be affected by an official action of the LBCB, which could reasonably result in a pecuniary gain or loss exceeding five hundred dollars.

D. Whether or not a conflict of interest exists requiring an excusal from participation in deliberation or voting on a matter shall be determined by the chairperson of the LBCB, whose decision may be overridden by a majority vote of the LBCB.

(Ord. No. 10-02, § 2(Exh. A), 11-25-2009)

Chapter 4.02 - ALCOHOLIC BEVERAGE DELIVERY SITE

Sections:

4.02.010 - Definitions.

When used in this chapter, the following words and phrases have the meanings given unless the context in which the word or phrase is used clearly indicates a different meaning was intended.

A. "Alcoholic beverage" means a spirituous, vinous, malt or other fermented or distilled liquid, whatever the origin, that is intended for human consumption as a beverage by a person who possesses or attempts to possess it and that contains alcohol in any amount if the liquid is produced privately, or that contains one-half of one percent or more of alcohol by volume, if the liquid is produced commercially.

B. "ABC board" means the Alaska Alcoholic Beverage Control Board.

C. "City delivery site" means a delivery site established and operated by the city.

D. "Common carrier" means a motor vehicle, watercraft, aircraft or railroad car available for public hire to transport freight or passengers.

E. "Delivery site," "alcohol delivery site" and "alcoholic beverage delivery site" refer to a designated delivery site or a city delivery site.

F. "Designated receiving site" means a common carrier that has been designated as a receiving site pursuant to Section 4.02.020.C.

G. "Distilled spirits" shall have the same meaning as is applied to the phrase in Title 4 of the Alaska Statutes.

H. "Domicile" means the place that the person has established as a residence in Kotzebue which is the person's only home and is the place to which the person intends to return whenever the person is away.

I. "Drunken person" means a person whose physical or mental conduct is substantially impaired as a result of the introduction of an alcoholic beverage into the person's body and who exhibits those plain and easily observed or discovered outward manifestations of behavior commonly known to be produced by the over consumption of alcoholic beverages.

J. "Import" means to bring personal property into the city by any means of transportation, whether transported while in the possession or control of the owner or intended recipient or transported in response to the request or arrangements made by or for the owner or intended recipient, but does not include personal property brought into the city by a common carrier that remains in control and possession of a common carrier until it is transported outside the city by a common carrier.

K. "Local beverage control board" means the local beverage control board established by Chapter 4.01 of the Kotzebue Municipal Code and shall be referred to herein as the "LBCB."

L. "Malt beverage" shall have the same meaning as is applied to the words in Title 4 of the Alaska Statutes.

M. "Minimum permitted delivery time" means the time between the date the delivery site mails or otherwise gives notice to a permittee of the arrival of alcoholic beverages for the permittee and the twenty-second day following the day of notice.

N. "Permit" means a permit issued under this chapter and/or Chapter 4.03.

O. "Permittee" means an individual holding a current, valid permit issued under this chapter and/or Chapter 4.03.

P. "Site" and "delivery site" mean the Kotzebue alcoholic beverage delivery site established or designated pursuant to this chapter.

Q. "Wine" shall have the same meaning as is applied to the word in Title 4 of the Alaska Statutes.

(Ord. No. 10-04, § 2(Exh. A), 4-1-2010)

4.02.020 - Establishment.

A. There is established the Kotzebue Alcoholic Beverage Delivery Site, which shall be at such location as the LBCB recommends and the city council approves. Designated receiving sites shall be such common carriers as are offered and accept a designation pursuant to subsection C., below. The alcoholic beverage delivery site should be in a well-lighted, developed area with reasonable public access and where it may be easily monitored. The proximity to a police or other public safety facility that is manned twenty-four hours a day is encouraged.

B. The delivery site shall be clean, heated and well-secured against break-in or other unauthorized entry. Inside the delivery site there shall be an area adequate to securely store alcoholic beverages delivered to the site. The LBCB, after consulting with such advisors, security professionals, law enforcement agencies and other persons shall devise and have installed or constructed such security systems, areas or arrangements as may be appropriate to ensure the security and safekeeping of alcoholic beverages delivered to the city delivery site.

C. The LBCB shall examine the facilities of each common carrier serving the city of Kotzebue after receiving permission from the carrier. If the LBCB determines that the facilities and procedures of the carrier meet or could meet the requirements for a designated receiving site including specific security requirements set by the LBCB, the LBCB shall submit to the city council a report on each carrier facility inspected. Each report shall contain:

1. A summary of how freight and checked luggage, if applicable, is received, processed and delivered or released to the addressee;
2. How alcoholic beverages are received, processed and delivered or released to the addressee;
3. How undelivered freight, including alcoholic beverages, are disposed of;
4. A description of the facilities and procedures of the carrier that exist or that could be used to ensure that shipments of alcoholic beverages received will be secure and that delivery is made only to an individual authorized to receive the shipment; and
5. Changes that would need to be made to the carrier's facilities and procedures for it to be able to satisfactorily serve as a designated receiving site.

The LBCB shall discuss a preliminary draft report with the carrier and shall consider alternatives suggested by the carrier. The final report on each carrier that indicates an interest in being designated as a receiving site shall be submitted to the city council. The report shall contain the recommendation of the LBCB as to whether the carrier should be offered a designation as a receiving site and the specific conditions that must be met by the carrier before the designation, if recommended by the LBCB, may become effective. The LBCB's recommendations may be implemented by the LBCB unless, at the city council meeting at which the LBCB's recommendations are scheduled for council consideration and action, the city council affirmatively rejects or disapproves the recommendations. The LBCB's recommendations shall be deemed approved unless there are four affirmative votes on a motion to reject the LBCB's recommendations.

D. The LBCB may impose new requirements and may modify existing requirements applicable to a designated receiving site to ensure effective operation of the delivery site system. The LBCB, following delivery of written notice of intent and reasons for revocation or other proposed action, and after an opportunity for the common carrier to be heard and respond to the

reasons set out in the notice, may take action that the LBCB determines to be appropriate under the circumstances found. The action may be revocation of the designation of the common carrier as a receiving site or may be a lesser deprivation or burden on the common carrier.

(Ord. No. 10-04, § 2(Exh. A), 4-1-2010)

4.02.030 - Notice of establishment.

A. Upon the establishment of an alcohol delivery site under this chapter the LBCB shall give notice of the establishment to the ABC board. The notice shall include:

1. The name by which the site is to be known if other than the "Kotzebue Alcoholic Beverage Delivery Site;"
2. The address of the site;
3. A request that the ABC board notify all holders of package store licenses who are authorized to ship alcoholic beverages in response to a written solicitation that the delivery site has been established and that all orders sent to a person in Kotzebue must thereafter be sent, shipping prepaid, to the purchaser at the delivery site address, or to such other delivery sites as are approved by the City; and
4. A request that the ABC board provide to the delivery site current and updated lists of the names of persons who, under A.S. 04.15.200, are convicted after October 24, 1987 of a violation of A.S. 04.11.01.

B. The LBCB shall provide to common carriers, whether or not designated as a receiving site, copies of the notice required to be posted under subsection C. of this section. The notice shall set out the delivery requirements of this chapter and the maximum penalty that may be imposed for violations. The notice shall be appropriate for the carrier with respect to whether designated receiving sites are used and whether the carrier is or is not a designated receiving site.

C. Common carriers shall post the notice provided by the city under this section in one or more conspicuous places in each of the following locations:

1. Where cargo or baggage is handled;
2. On bulletin boards where notices to employees required by law are posted;
3. Where persons claiming baggage or receiving cargo shipments claim their baggage or shipments; and
4. Where baggage and cargo shipments are physically delivered to the traveler, shipper or claimant.

(Ord. No. 10-04, § 2(Exh. A), 4-1-2010)

4.02.040 - Delivery site operation responsibility.

A. As set forth in Section 4.01.150.A. of this title, the LBCB shall, subject to city council review and approval, have the power and duty to the maximum extent possible, subject to available funding, and as allowed by local, state and federal law, to establish and operate a delivery site.

B. A designated receiving site shall be operated by officers, employees or agents of the common carrier in accordance with this chapter and the conditions of the designation.

C. The LBCB shall prescribe rules, policies and procedures, as approved by the city council, which are consistent with the provisions of this chapter, as it determines to be appropriate.

(Ord. No. 10-04, § 2(Exh. A), 4-1-2010)

4.02.050 - Delivery site hours of operation.

A. The LBCB shall establish a schedule of days and hours of operation for the delivery site, through regulations. Unless otherwise required under conditions of a designation of a common carrier as a receiving site, the common carrier may establish its own days and hours of operation consistent with subsection B. below. The schedule shall be posted at each entrance to the delivery site.

B. The delivery site shall be open for receipt and redelivery of alcoholic beverages as established in regulations by the LBCB. The LBCB may establish a schedule for receipt of alcoholic beverages at a city delivery site that is different from the schedule for redelivery.

C. Through regulations, the LBCB may authorize additional, unscheduled hours of operation on a temporary basis to accommodate special situations.

(Ord. No. 10-04, § 2(Exh. A), 4-1-2010)

4.02.060 - Importation limits.

A. Within any calendar month, a person may not import into the city more than twelve gallons of malt beverages, twenty-four liters of wine and ten and one-half liters of distilled spirits, as set forth in A.S. 04.11.150(g).

B. A person may not import any amount of alcoholic beverage containing more than seventy-six percent alcohol by volume, as set out in A.S. 04.16.110. However, the LBCB, with city council approval, may impose a limit for distilled spirits of not less than forty percent or more than seventy-six percent alcohol by volume as permitted by A.S. 04.21.010(a)(2).

(Ord. No. 10-04, § 2(Exh. A), 4-1-2010)

4.02.070 - Delivery to alcohol delivery site.

A. All alcoholic beverages sent into the city by a package store shall be sent, shipping prepaid, and shall be addressed to the purchaser at the delivery site.

B. A person importing alcoholic beverages into the city in a quantity exceeding one liter of distilled spirits, or two liters of wine, or one gallon of malt beverage in a single day or single shipment shall ship such alcoholic beverages into the city, shipping prepaid, addressed to and for delivery to the delivery site. Said alcoholic beverages shall be shipped separately, in packages clearly marked as "alcoholic beverages" in lettering at least two inches high and drawn in lines one-quarter inch wide. Said shipments shall contain only alcoholic beverages and such alcoholic beverage shipments shall not be packed with other nonalcoholic beverage items. The person who is in possession of alcoholic beverages subject to this subsection B. at the time they are imported into the city or who is a common carrier that is not a designated receiving site and to which the shipment is transferred for delivery to the Kotzebue addressee, shall deliver or cause such alcoholic beverages to be delivered to a delivery site; provided, alcoholic beverages transported as checked baggage accompanying a traveler on a regularly scheduled air carrier that is not a designated receiving site may not be claimed by the traveler at the air terminal, but shall be delivered to a delivery site by the air or other common carrier immediately or at the earliest time the delivery site is next open to receive alcoholic beverages if the alcoholic beverages exceed one liter of distilled spirits, two liters of wine or one gallon of beer; amounts that are at or below these limits are not required to be delivered to or processed through a delivery site.

C. A person may not open, consume or transfer to another, any alcoholic beverage required to be delivered to the delivery site until after such alcoholic beverage has been delivered as required by this section and redelivered to the purchaser or owner.

D. A person transporting alcoholic beverages into Kotzebue via common carrier shall comply with the labeling requirements in A.S. 04.16.125.

(Ord. No. 10-04, § 2(Exh. A), 4-1-2010)

4.02.080 - Receipt and processing—Package store shipments.

A. Upon the receipt of alcoholic beverages shipped from a package store, the delivery site shall:

1. Receive the shipping container;
2. Note on the delivery site records and on any shipping document tendered at delivery any damage that appears to have occurred to the container or its contents and notify parties responsible for the damage;
3. Ensure that the date received, name of the purchaser and the invoice number are clearly marked on the shipping container;

4. Remove the invoice from the shipping container; however, if no invoice of the contents is provided, the delivery site shall prepare an inventory of the contents and that inventory shall be deemed the contents of the shipping container;
 5. Record the quantities of each kind of alcoholic beverage contained in the shipping container and enter the quantities on the permittee's monthly record or on another log or record kept by the city;
 6. Record sales or use tax and other information as may be required by the LBCB;
 7. Determine whether the purchaser is authorized to receive the alcoholic beverages on the invoice; and
 8. provide the purchaser with notice of receipt of the alcoholic beverages and the amount due the city for sales or use taxes, handling and storage fees and any other charges, levies, or taxes.
- B. If the purchaser is not authorized to receive the alcoholic beverages, the alcoholic beverages may not be delivered to that person or to another person and the delivery site shall retain all alcoholic beverages that cannot be delivered until the earlier of the time they may be lawfully delivered or until they are disposed of by the common carrier if held by a designated receiving site or until they are transferred to the city's package store for sale to an authorized purchaser under the provisions of this chapter, if held by a city delivery site.
- C. If the purchaser is authorized to receive the alcoholic beverages, they shall be delivered to the person upon payment of all taxes, handling and storage fees, and other charges, levies or taxes owing.
- D. The records created or maintained by a delivery site for the purpose of monitoring the amount of alcoholic beverages received by an individual within a month are confidential and are not public records. Such records shall be disclosed only to those delivery site employees who require access to such records for the purpose of making entries of new receipts or deliveries and to determine whether the person has or will exceed their monthly limits under KMC § 4.02.060. The city employee designated by the LBCB to consolidate the individual delivery records and issue the permits shall also have access to such records. All other access to the records shall be only as required by law and the LBCB regulations that establish procedures by which local, state and federal law enforcement may have access to delivery site and/or package store records. The provisions of this subsection apply to alcohol received or processed through a delivery site under Sections 4.02.080 and 4.02.090 and alcohol purchased under Chapter 4.03 of this title.

(Ord. No. 10-04, § 2(Exh. A), 4-1-2010)

4.02.090 - Receipt and delivery—Other shipments.

A. Alcoholic beverages required to be delivered to the delivery site that are not delivered under Section 4.02.080 shall be delivered at the earliest opportunity by the person importing the alcoholic beverages or the person otherwise required under Section 4.02.070.B. to deliver the alcoholic beverages to the delivery site. Upon delivery, the delivery site shall remove and examine the invoice and may require a container delivered to be opened for inspection. Based on the invoice or actual inspection, the delivery site shall make an inventory of the contents of each container and shall process the alcoholic beverages as provided in Section 4.02.080.A., except the addressee or owner shall be substituted for the purchaser.

B. If the owner or the person to whom the alcoholic beverages are addressed is not authorized to receive the alcoholic beverages, the alcoholic beverages may not be delivered to that person or to any other person and the delivery site shall retain the alcoholic beverages that cannot be delivered until the earlier of the time that they may be lawfully delivered or until they are disposed of by a common carrier held by a designated receiving site or are transferred to the city's package store for sale to an authorized purchaser.

C. If the owner or addressee is authorized to receive the alcoholic beverages, the alcoholic beverages shall be delivered only to the owner or addressee upon payment of all taxes, handling and storage fees and other charges, levies or taxes owing.

(Ord. No. 10-04, § 2(Exh. A), 4-1-2010)

4.02.100 - Re-delivery of alcoholic beverages.

A. Delivery of alcoholic beverages by the delivery site may occur only at the delivery site and may be made only by an authorized officer or employee of the city. Delivery by the designated receiving site to the delivery site may be made only by an officer, employee or agent of the common carrier authorized by the common carrier to make such deliveries.

B. The following persons are not authorized to receive alcoholic beverages and no delivery may be made to such person:

1. A person believed to be a drunken person by the delivery site employee in charge of the delivery site at the time of the delivery request is made;
2. A person who is unable to provide to the delivery site the person's current, valid permit;
3. A person who is unable to satisfy the delivery site employee by means of duly-issued, official identification, with such identification requirements as set by regulations approved by the LBCB, that he/she is the person to whom the permit was issued;
4. A person who has received during the current calendar month the maximum quantity of one or more of the types of alcoholic beverages permitted to the person under this chapter or Chapter 4.03; or who, upon delivery of the alcoholic beverages would exceed a limit established by this

chapter or Chapter 4.03; provided so much of the beverages sought may be delivered to the extent the delivery does not cause the person to exceed their monthly limit for the alcoholic beverage as established by this chapter or Chapter 4.03;

5. A person who fails or refuses to pay all amounts owing the city with respect to the alcoholic beverages;

6. A person who, under A.S. 04.16.200 has been convicted within the preceding two years of a violation of A.S. 04.11.010;

7. For so long as the court order is in effect, a person whom a court has ordered not to consume or possess alcohol if the delivery site has been so notified by the Kotzebue Police Department;

8. For so long as the condition is in effect, a person who has been released from custody pending trial or who has been released on probation, parole or under similar circumstances, if a condition of the release is that the person not consume or possess alcoholic beverages if the delivery site has been so notified by the Kotzebue Police Department;

9. A person who is not able to satisfactorily prove that their domicile is the place shown on the permit; or

10. A person who has voluntarily placed himself/herself on a "no delivery list" on such terms and conditions as established by duly-adopted LBCB regulations.

C. An authorized delivery site employee may not deliver alcoholic beverages to a person who is not authorized to receive alcoholic beverages.

D. A person who is not authorized to receive alcoholic beverages may not receive them at the delivery site or elsewhere.

E. Before the delivery site may refuse delivery to a person for reasons set out in subsections B.6., 7. or 8., above, the delivery site must be in possession of a copy of the court order or judgment or either a copy of the conditioned release or written confirmation of the conditioned release and the terms of the conditions relating to alcohol consumption, or a confirmation by the court, the chief of police or the LBCB of the criminal judgment. The burden of showing that the order, condition of release or condition of probation or parole, above, is no longer in effect is upon the person to whom the order or condition or criminal judgment applied. The LBCB shall adopt regulations, as approved by the city council, for the implementation and enforcement of B.6., 7. and 8., above.

F. Alcoholic beverages not delivered to a permittee for any reason shall be held at the delivery site for not less than twenty-one days from the date of notice of availability to the permittee. After such time, the alcoholic beverages may be transferred to the city's package store as provided in Section 4.02.110.

G. Alcoholic beverages not delivered to the delivery site by a designated receiving site shall be retained and disposed of under laws applicable to the common carrier, or, if the common carrier elects, as provided for undelivered alcoholic beverages at a city delivery site.

H. A person who is refused delivery shall be provided with a written statement from the delivery site employee refusing delivery clearly stating the reason for the refusal to deliver and stating the date, if applicable, after which the alcoholic beverages may be transferred to the city's package store, if not sooner delivered. If the delivery is refused at the city delivery site or a designated receiving site that has elected under subsection G., above, to be bound by the city delivery site transfer procedures to the city's package store refuses to deliver to the city delivery site, the person whose delivery has been refused shall be informed of their right to appeal the refusal to deliver to the LBCB.

(Ord. No. 10-04, § 2(Exh. A), 4-1-2010)

4.02.110 - Transfer of undelivered alcoholic beverages.

A. Alcoholic beverages that have not been delivered within the minimum permitted delivery time may be transferred to the city's package store for sale to an authorized purchaser under the procedures set out in this section, with the exception of alcoholic beverages that are:

1. The subject of an appeal to the LBCB or the court under this chapter; or
2. The subject of a decision of the LBCB or a court for which the time for appeal of the decision has yet to expire, if prepayment of storage fees required under this section have been paid.

B. At any time following the expiration of the minimum permitted delivery time, the delivery site shall give notice to the purchaser or addressee of the alcoholic beverages for which the minimum permitted delivery time has expired. The notice shall identify the alcoholic beverages and shall inform the purchaser or addressee:

1. That the minimum permitted delivery time has expired; and
2. That after an additional seven days from the date the written notice is mailed, the delivery site will take action to transfer the undelivered beverages to the city's package store for sale to an authorized purchaser unless the permittee picks up the beverages, if authorized, prepays storage fees or files an appeal to the LBCB.

C. The permittee shall be notified that the permittee may file a written appeal at the delivery site not later than the close of business on the seventh day following the date the notice is mailed and that the timely filing of such an appeal will stay the transfer of the alcoholic beverages during the pendency of the appeal. At any time before or after the filing of an appeal, and before the alcoholic beverages are transferred, the owner may make arrangements to have the alcoholic beverages shipped back to the package store that originally shipped the beverages to the delivery

site; provided, all handling, storage and other delivery site charges and city taxes must be paid before the delivery site may release the beverages for reshipment. The arrangements for reshipment must include prepayment of all shipping and handling charges and assurances that the beverages will be in the possession of common carriers from the time released by the delivery site until delivered back to the package store.

D. Upon receipt of a timely-filed appeal, or a late appeal regarding alcoholic beverages that have not yet been transferred to the city's package store for sale to an authorized purchaser, the city delivery site shall segregate the undelivered alcoholic beverages subject to the appeal and note prominently on the container that the alcoholic beverages within the container are the subject of the appeal. The city delivery site shall note on the appeal the date and time received, shall retain a copy for its files and shall forward the original to the LBCB along with the copy of the records of the city delivery site showing all relevant activities relating to the alcoholic beverages and their non-delivery from the date of receipt of the alcoholic beverages at the delivery site through the date of receipt of the appeal.

E. Upon receipt of an appeal by the LBCB, the LBCB shall hear the appeal in the manner provided under Section 4.02.130.

F. Storage and applicable charges shall continue to accrue during the pendency of the appeal to the LBCB. If the LBCB determines that the alcoholic beverages should have been delivered when delivery was refused, storage and other related charges that accrued following the refusal to deliver shall be waived, provided the alcoholic beverages are delivered to the appellant within three delivery site operating days of the date the LBCB's decision is mailed or delivered to the appellant; provided, further, the appellant must be qualified and authorized to receive the alcoholic beverages subject to the appeal at the time the appellant requests delivery of the alcoholic beverages at the delivery site.

G. If the LBCB determines that the refusal to deliver was appropriate, the appellant may appeal the LBCB's decision to the superior court as provided in the applicable Alaska Rules of Appellate Procedures. If the appellant intends to appeal the LBCB's decision to the superior court, the appellant may avoid the transfer of the alcoholic beverages to the city's package store, for sale to any other authorized person, by paying, within three delivery site operating days of the date of the LBCB's decision, all taxes and charges due on the alcoholic beverages from the date of the receipt through the thirty-third day following the appellant's receipt of the LBCB's written decision. If the appellant files a notice of appeal to the superior court of the LBCB's decision, and, in addition, serves a copy of the notice of appeal on the delivery site, with a prepayment for storage and other charges that will come due within the six months that follow the date of the notice of appeal, the delivery site may not transfer the alcoholic beverages to the city's package store for sale to any other authorized person and shall continue to store them for the period covered by their prepayment or until they are lawfully delivered to the appellant, whichever occurs first. If the alcoholic beverages have not been delivered to the appellant and the final

decision of the superior court on the appeal has not been issued before the expiration of the period covered by the prepayment, the appellant shall pay for an additional six-month period. Upon the issuance of a final, appealable decision by the superior court, the alcoholic beverages shall be subject to the same procedures and prepayment requirements as applied upon delivery of the LBCB's decision to the appellant. If the alcoholic beverages are delivered to the appellant at any time prior to the expiration of a prepayment, the amount of the prepayment attributable to the time beyond the date of delivery shall be refunded to the appellant.

H. Upon the failure of a permittee to timely appeal or to make a prepayment or take other required action under this section to preserve his or her right to have the delivery site continue to store his or her alcoholic beverages, the person thereby forfeits all rights, title and claims to such alcoholic beverages and the alcoholic beverages may be transferred to the city's package store for sale to any other authorized person. Upon certification by an authorized delivery site employee that there is no pending appeal of the delivery refusal decision, or that the period covered by the last storage prepayment has expired, and that written notice of the expiration of the prepayment or appeal period was mailed to the appellant at least seven days prior to the date of the certification, the alcoholic beverages may be transferred to the city's package store for sale to any other authorized person.

I. The delivery site shall forward the certification of transfer to the LBCB. The delivery site shall maintain an inventory of all alcoholic beverages transferred to the city's package store for sale to an authorized person.

(Ord. No. 10-04, § 2(Exh. A), 4-1-2010)

4.02.120 - Permit.

A. Upon receipt of a complete application and a nonrefundable application fee in an amount set by the LBCB, the city employee designated by the LBCB shall issue an alcoholic beverage delivery permit to a person who meets the qualifications set out in this section. Permit applications must contain the mailing address or phone number at which the applicant may be notified of the arrival of alcoholic beverages at the delivery site and receive other notices required to be given under this chapter. The application shall contain the applicant's driver's license number, voter registration number and such other information as the LBCB may establish in regulations and/or the designated city employee may require as proof of domicile in Kotzebue and for identification purposes. Permits shall be numbered sequentially and shall be valid for a period of one year. Permits are the property of the city of Kotzebue and may be revoked, suspended and/or surrendered to the city as provided by law, ordinance, statute and regulation. If a permit is lost by the permittee or must be replaced for any reason, a nonrefundable replacement fee in an amount set by the LBCB shall be paid by the permittee.

B. A permit may be renewed by a person who continues to meet the qualifications for a permit upon the filing of a renewal application accompanied by a nonrefundable renewal fee in an

amount set by the LBCB and proof of the applicant's qualification for renewal. A lost, stolen or destroyed permit may be replaced under this renewal procedure.

C. To qualify for a permit, a person must:

1. Be at least twenty-one years of age;
2. Be domiciled within the city limits of the city of Kotzebue with proof of domicile as required by regulations established by the LBCB;
3. Not have any amounts owing to the city of Kotzebue for delivery site handling, storage, other delivery site charges, and/or sales/use taxes on alcoholic beverages;
4. Within two years of the date of the application not have been convicted of, pleaded guilty or no contest to a violation of:
 - (a) Any provision of Title 4 of the Alaska Statutes;
 - (b) A.S. 28.33.030, 28.35.030 or 28.35.032; or
 - (c) Any provision of federal law regulating the manufacture, possession, transportation, sale or use of alcoholic beverages or any provision of the Kotzebue Municipal Code involving the importation, sale, delivery, possession or use of alcohol.
5. Not be subject to a court order or conditions as set out, above, in Section 4.02.100.B.7. and B.8.; and
6. Not be a person who has been issued a permit under this chapter whose permit has been suspended or revoked unless the period of the revocation or suspension has expired and any fines paid in full and all conditions imposed have been met.

D. Upon receipt of a completed application and the required fee, the designated city employee shall undertake such investigation as may be necessary to verify statements and claims made in the application and separately provided proofs submitted by the applicant. If the designated city employee determines the applicant is qualified for a new permit or a renewal of an existing permit, designated city employee shall issue the permit and provide a copy of the permit and application to the alcohol delivery site. Permits may be delivered by the designated city employee only to the applicant in person and to no other person except to the qualified, designated agent of a physically disabled person who has been issued a disabled person's permit pursuant to Section 4.02.140.E., below.

E. If the designated city employee determines that an applicant is not qualified or that an essential claim, statement or proof is doubtful and unsupported by adequate, reliable evidence or other defect, the applicant shall have fourteen calendar days from the date the designated city employee mails the notice within which to submit documentation or other proof to overcome the

deficiencies set out in the notice prepared by the designated city employee. If the designated city employee is satisfied that the person is qualified for a permit, the designated city employee shall issue the permit as provided in subsection D. of this section. If the designated city employee determines, based on the submissions by the applicant and the results of the investigation by the designated city employee that the applicant has not satisfactorily shown that the applicant is qualified for a permit, the designated city employee shall deny the permit and shall notify the applicant in writing of the denial and of the reasons for the denial. The denial of the permit may be appealed to the LBCB who shall hear the appeal on the record established by the designated city employee. The notice of denial from the designated city employee shall contain a statement advising the applicant of the right to appeal the denial to the LBCB by filing a written notice of appeal to the LBCB within thirty days of the date the notice of denial is mailed by the designated city employee.

F. A person may not provide or make untrue or misleading statements or provide false, altered or misleading documents in connection with an application for a permit under this chapter.

(Ord. No. 10-04, § 2(Exh. A), 4-1-2010)

4.02.130 - Appeals to LBCB.

A. In an appeal by a permit applicant from a decision of the designated city employee, the LBCB shall hear the appeal on the record made by the designated city employee. New evidence that could have been provided to the designated city employee during the application process may not be submitted as a part of the appeal to the LBCB. After receiving written arguments or oral argument, if permitted by the LBCB, from the applicant and the designated city employee, the LBCB shall determine whether, upon the record before the designated city employee at the time the appealed decision was made, there was substantial evidence to support the decision of the designated city employee.

B. In an appeal from a decision of the delivery site to refuse delivery, confiscate a permit, or to take or refuse to take other action, the aggrieved person shall file a written notice of appeal with the delivery site within seven calendar days of the delivery or mailing of the decision unless a longer period of time is permitted under this chapter. The delivery site shall immediately forward the notice of appeal to the LBCB.

C. In all appeals, the LBCB shall provide notice to the appellant whether oral arguments and testimony will be permitted and the date:

1. Upon which oral arguments and oral testimony will be heard, if permitted;
2. By which additional documents, if permitted, must be received; and
3. By which written arguments must be received.

The LBCB shall inform the appellant where the record on appeal may be reviewed and shall provide a copy to the appellant upon request and payment of any copying charges that apply.

D. The LBCB shall schedule the receipt of argument, testimony and documents to ensure that the appellant has reasonable time to prepare and make submission to the LBCB. The first request by the appellant to extend a submission date or to reschedule an oral argument or testimony date shall be freely granted unless doing so would create a hardship for the designated city employee or the delivery site. Any additional extensions for appellant must be fully justified.

E. The LBCB may retain a hearing officer, who may be the city attorney or other appropriate city employee, to hear an appeal under this chapter. The hearing officer shall make scheduling and other procedural decisions and, after receipt of the written argument by the appellant and the designated city employee, shall prepare a proposed decision for the LBCB. The proposed decision by the LBCB or the hearing officer shall set out the evidence in the record upon which the decision is based, a conclusion and an appropriate order. If the LBCB does assign a hearing officer to hear an appeal, the LBCB may accept and sign the proposed decision of the hearing officer, redraft or modify it before signing it or refer it back to the hearing officer for further specified action. Upon signing of the decision, it becomes the LBCB's decision.

F. If the LBCB hears and decides the appeal, it shall prepare a written decision setting out the evidence relied upon, conclusions and an appropriate order.

G. The LBCB's decision may be appealed to the superior court in accordance with the Alaska Rules of Appellate Procedure applicable to administrative decisions. The LBCB's decision shall contain such notice of the right of appeal as may be required by the Alaska Rules of Appellate Procedure.

(Ord. No. 10-04, § 2(Exh. A), 4-1-2010)

4.02.140 - Use and possession of permit.

A. A permittee may not authorize, permit or acquiesce in the use or possession, for any purpose, by another person of the permit issued to the permittee.

B. A permittee may not fail to prevent another person from possessing or using the city-issued permit of the permittee. It shall be a defense to a violation of this subsection if the permittee, upon discovery the loss of the permit or that the permit is in the possession of another person, immediately notified the city delivery site and the Kotzebue Police Department of the loss of the permit and the name of the person possessing the permit, if known.

C. A person other than the permittee may not possess or use or attempt to possess or use for any purpose, a permit issued under this chapter to another person.

D. The delivery site employee shall retain any permit displayed by a person who is not the permittee to whom the permit was issued.

E. Subsections A., B., C. and D. of this section do not apply when the permittee is a disabled person who has met the terms and conditions set by the LBCB for a disabled person's permit and who has been issued a disabled person's permit and the permit is in the possession of the person designated on the permit as the permittee's qualified agent the disabled person's qualified agent also has a valid permit under this chapter.

F. A person may not alter in any way a permit issued under this chapter.

G. A person may not make, by any means, an imitation or copy of a permit issued or authorized to be issued, under this chapter.

H. A person may not use or attempt to use for identification or any similar purpose a permit that has been altered or that is an imitation or copy of a permit issued or authorized to be issued, under this chapter.

I. A delivery site employee shall confiscate and retain any altered, copy or imitation permit displayed by the holder.

J. A delivery site employee, upon receiving the permit, shall confiscate and retain the permit of a person whose permit has been revoked or suspended.

K. The LBCB shall be promptly notified of the confiscation or retention of a permit by the delivery site.

(Ord. No. 10-04, § 2(Exh. A), 4-1-2010)

4.02.150 - Permit revocation or suspension.

A. The permit of a person shall be revoked or suspended upon a determination by the LBCB, or the LBCB's designee, that any of the following have occurred:

1. The permittee has allowed another person to use the permittee's permit for any purpose;
2. The permittee's permit has been altered, copied or used as the basis for the making of a false or imitation permit;
3. The permittee has been convicted of, pleaded guilty or no contest to any of the violations or is under a court order or on conditions as set out in Section 4.02.120.C.4.(a), (b) or (c) and Section 4.02.120.C.5.;
4. The permittee has failed or refused to pay an amount owing the city for fees, charges or taxes due for alcoholic beverages received by the delivery site addressed to or for the permittee if such

amount remains unpaid more than thirty days following the mailing to the permittee of an invoice for the amount owing;

5. The permittee has used the permit of another person for any purpose;
6. The permittee submitted untrue or misleading statements or false, altered or misleading documents in connection with an application for a permit;
7. The permittee is no longer domiciled in Kotzebue; or
8. The permittee has violated any of the provisions of this chapter.

B. Upon receiving notice from the delivery site or a city officer or employee that any of the conditions set out in subsection A. of this section exist, the LBCB or the LBCB's designee shall immediately notify the permittee of the allegation and that the permit will be suspended or revoked ten days from the date the notice is mailed unless the permittee files an appeal to the LBCB. An appeal to the LBCB shall be processed as provided in Section 4.02.130.

C. Upon a finding that one or more of the conditions set out in Section 4.02.150.A. have occurred, the LBCB shall suspend or revoke the person's permit, as determined to be appropriate under the circumstances by the LBCB, or the LBCB's designee. The order of suspension or revocation shall state the length of time the suspension or revocation shall remain in effect and any additional requirements, including fines, the permittee must meet before a new permit may be issued to a person whose permit has been revoked. A suspended permit shall be retained by the LBCB and returned to the permittee when the period of suspension ends. A revoked permit shall be destroyed by the LBCB after the time for the appeal of the LBCB's decision has expired.

(Ord. No. 10-04, § 2(Exh. A), 4-1-2010)

4.02.160 - Fees, charges and storage limits.

The LBCB, with the approval of the city council shall, by LBCB resolution, establish a schedule of fees and charges for receipt, storage, stocking, handling, delivery, processing, transfer to the city package store and any other services or activities performed by the city and the delivery site.

The LBCB shall establish limits on the amount of alcoholic beverages a permittee may have stored at the delivery site at any one time. Amounts in excess of the limits established shall be charged additional fees and surcharges as determined by the LBCB and as approved by the city council and/or transferred to the city's package store for sale to an authorized person.

(Ord. No. 10-04, § 2(Exh. A), 4-1-2010)

4.02.170 - Penalties for violations.

A. Upon a violation of this chapter, the person shall be fined and penalized in accordance with terms, conditions and penalties as set by regulations duly adopted by the LBCB and approved by the city council.

B. All outstanding conditions, penalties and fines must be satisfied and paid in full before a permit may be renewed or re-issued.

(Ord. No. 10-04, § 2(Exh. A), 4-1-2010)

4.02.180 - Severability.

If any provision of this chapter shall be declared invalid or void it shall not invalidate or void the other provisions of this chapter. Such invalid or void provisions shall be severed from this chapter and not adversely affect the lawful enforcement of the other provisions.

(Ord. No. 10-04, § 2(Exh. A), 4-1-2010)

Chapter 4.03 - ALCOHOLIC BEVERAGE PACKAGE STORE

Sections:

4.03.010 - Definitions.

When used in this chapter, all words and phrases have the meanings set out in Section 4.02.010, Definitions, of this title, unless the context in which the word or phrase is used clearly indicates a different meaning was intended.

(Ord. No. 10-04, § 3(Exh. B), 4-1-2010)

4.03.020 - Establishment.

A. There is established the Kotzebue Alcoholic Beverage Package Store, which shall be at such location as the LBCB recommends and the city council approves. The package store should be located in a well-lighted, developed area with reasonable public access and where it may be easily monitored. The proximity to a police or other public safety facility that is manned twenty-four hours a day is encouraged.

B. The package store shall be clean, heated and well-secured against break-in or other unauthorized entry. Inside the package store there shall be an area adequate to securely store alcoholic beverages delivered to the site. The LBCB, after consulting with such advisors, security professionals, law enforcement agencies and other persons shall devise and have installed or constructed such security systems, areas or arrangements as may be appropriate to ensure the security and safekeeping of alcoholic beverages delivered to the city package store.

(Ord. No. 10-04, § 3(Exh. B), 4-1-2010)

4.03.030 - Notice of establishment.

Upon the establishment of an alcohol package store under this chapter, the LBCB shall give notice of the establishment to the ABC board, as required by state law. The notice shall include, at a minimum:

1. The name by which the site is to be known if other than the "Kotzebue Alcoholic Beverage Package Store;" and
2. The address of the site.

(Ord. No. 10-04, § 3(Exh. B), 4-1-2010)

4.03.040 - Package store operation responsibility.

A. As set forth in Section 4.01.150.B. of this title, the LBCB shall, subject to city council review and approval, have the power and duty to the maximum extent possible, subject to available funding, and as allowed by local, state and federal law, to establish and operate a package store.

B. The LBCB shall prescribe rules, policies and procedures, as approved by the city council, which are consistent with the provisions of this chapter, as it determines to be appropriate.

(Ord. No. 10-04, § 3(Exh. B), 4-1-2010)

4.03.050 - Package store hours of operation.

A. The LBCB by regulation shall establish a schedule of days and hours of operation for the package store. The schedule shall be posted at each entrance to the package store.

B. The hours of operation of the package store may be the same as the hours of operation of the delivery site established by Chapter 4.02 of the Kotzebue Municipal Code. However, the LBCB may establish different hours of operation for the package store, even if the package store and the delivery site are located in the same facility.

C. Through regulations, the LBCB may authorize additional, unscheduled hours of operation on a temporary basis to accommodate special situations.

(Ord. No. 10-04, § 3(Exh. B), 4-1-2010)

4.03.060 - Daily sale limits. The LBCB may, through regulations approved by the city council, set daily limits on the amount of alcoholic beverages an authorized individual may purchase at the package store.

(Ord. No. 10-04, § 3(Exh. B), 4-1-2010)

4.03.070 - Monthly sale limits.

The LBCB may, through regulations approved by the city council, set monthly limits on the amount of alcoholic beverages an authorized individual may purchase at the package store.

(Ord. No. 10-04, § 3(Exh. B), 4-1-2010)

4.03.080 - Purchase of alcoholic beverages.

A. The purchase of alcoholic beverages in Kotzebue may occur only at the package store established by this chapter until such time as a city-owned-and-operated beverage dispensary, licensed bar and/or city-owned-and-operated licensed restaurant is opened and in operation, at which time alcoholic beverages may also be purchased at such city-owned-and-operated facilities. Sales transactions for alcoholic beverages may be made only by an authorized officer or employee of the city.

B. The following persons are not authorized to purchase alcoholic beverages and no sales shall be made to such persons:

1. A person believed to be a drunken person by the package store employee in charge of the package store at the time the request to purchase is made;
2. A person who is unable to provide his/her current, valid permit to the package store employee;
3. A person who is unable to satisfy the package store employee by means of a duly-issued, official identification, with such identification requirements as set by regulations approved by the LBCB, that he/she is the person to whom the permit was issued;
4. A person who fails or refuses to pay all amounts owing the city with respect to the alcoholic beverages;
5. A person who, under A.S. 04.16.200 has been convicted within the preceding two years of a violation of A.S. 04.11.010;
6. For so long as the court order is in effect, a person whom a court has ordered not to consume or possess alcohol if the package store has been so notified by the Kotzebue Police Department;
7. For so long as the condition is in effect, a person who has been released from custody pending trial or who has been released on probation, parole or under similar circumstances, if a condition of the release is that the person not consume or possess alcoholic beverages if the package store has been so notified by the Kotzebue Police Department;
8. A person who is not able to satisfactorily prove that their domicile is the place shown on the permit; or
9. A person who has voluntarily placed himself/herself on a "no sale list" on such terms and conditions as established by duly-adopted LBCB regulations.

C. An authorized package store employee may not sell alcoholic beverages to a person who is not authorized to purchase alcoholic beverages.

D. A person who is not authorized to purchase alcoholic beverages may not buy them at the package store or elsewhere.

E. Before the package store employee may refuse to sell alcohol to a person for reasons set out in subsections B.5., 6. or 7., above, the package store must be in possession of a copy of the court order or judgment or either a copy of the conditioned release or written confirmation of the conditioned release and the terms of the conditions relating to alcohol consumption, or a confirmation by the court, the chief of police or the LBCB of the criminal judgment. The burden of showing that the order, condition of release or condition of probation or parole, above, is no longer in effect is upon the person to whom the order or condition or criminal judgment applied.

(Ord. No. 10-04, § 3(Exh. B), 4-1-2010)

4.03.090 - Permit.

A. Upon receipt of a complete application and a nonrefundable application fee in an amount set by the LBCB, the city employee designated by the LBCB shall issue an alcoholic beverage package store permit to a person who meets the qualifications set out in this section. Permit applications must contain the mailing address and phone number of applicant. The application shall contain the applicant's driver's license number, voter registration number and such other information as the LBCB may establish in regulations and/or the city employee designated by the LBCB may require as proof of domicile in Kotzebue and for identification purposes. Permits shall be numbered sequentially and shall be valid for a period of one year. Permits are the property of the city of Kotzebue and may be revoked, suspended and/or surrendered to the city as provided by law, ordinance, statute and regulation. If a permit is lost by the permittee or must be replaced for any reason, a nonrefundable replacement fee in an amount set by the LBCB shall be paid by the permittee.

B. A permit may be renewed by a person who continues to meet the qualifications for a permit upon the filing of a renewal application accompanied by a nonrefundable renewal fee in an amount set by the LBCB and proof of the applicant's qualification for renewal. A lost, stolen or destroyed permit may be replaced under this renewal procedure.

C. To qualify for a permit, a person must:

1. Be at least twenty-one years of age;

2. Be domiciled within the city limits of the city of Kotzebue with proof of domicile as required in regulations established by the LBCB or have a permit as set forth in Section 4.03.090.G., below;

3. Not have any amounts owing to the city of Kotzebue for delivery site handling, storage, other delivery site charges, sales/use taxes on alcoholic beverages;

4. Within two years of the date of the application not have been convicted of, pleaded guilty or no contest to a violation of:

(a) Any provision of Title 4 of the Alaska Statutes;

(b) AS 28.33.030, 28.35.030 or 28.35.032; or

(c) Any provision of federal law regulating the manufacture, possession, transportation, sale or use of alcoholic beverages or any provision of the Kotzebue Municipal Code involving the importation, sale, delivery, possession or use of alcohol.

5. Not be subject to a court order or conditions as set out above in Section 4.03.080.B.6. and B.7.; and

6. Not be a person who has been issued a permit under this chapter whose permit has been suspended or revoked unless the period of the revocation or suspension has expired and any fines paid in full and all conditions imposed have been met.

D. Upon receipt of a completed application and the required fee, the designated city employee shall undertake such investigation as may be necessary to verify statements and claims made in the application and separately provided proofs submitted by the applicant. If the designated city employee determines the applicant is qualified for a new permit or a renewal of an existing permit, the designated city employee shall issue the permit and provide a copy of the permit and application to the alcohol package store. Permits may be delivered by the designated city employee only to the applicant in person and to no other person except to the qualified, designated agent of a physically disabled person who has been issued a disabled person's permit pursuant to Section 4.03.110.E., below.

E. If the designated city employee determines that an applicant is not qualified or that an essential claim, statement or proof is doubtful and unsupported by adequate, reliable evidence or other defect, the applicant shall have fourteen calendar days from the date the designated city employee mails the notice within which to submit documentation or other proof to overcome the deficiencies set out in the notice prepared by the designated city employee. If the designated city employee is satisfied that the person is qualified for a permit, the designated city employee shall issue the permit as provided in subsection D. of this section. If the designated city employee determines, based on the submissions by the applicant and the results of the investigation by the designated city employee that the applicant has not satisfactorily shown that the applicant is qualified for a permit, the designated city employee shall deny the permit and shall notify the applicant in writing of the denial and of the reasons for the denial. The denial of the permit may be appealed to the LBCB who shall hear the appeal on the record established by the designated

city employee. The notice of denial from the designated city employee shall contain a statement advising the applicant of the right to appeal the denial to the LBCB by filing a written notice of appeal to the LBCB within thirty days of the date the notice of denial is mailed by the designated city employee.

F. A person may not provide or make untrue or misleading statements or provide false, altered or misleading documents in connection with an application for a permit under this chapter.

G. Notwithstanding Section 4.03.090.C.2., above, the LBCB may, through duly adopted regulations as approved by the city council, establish a permit process for visitors, transients, temporary residents and/or seasonal workers who are not permanently domiciled in Kotzebue.

(Ord. No. 10-04, § 3(Exh. B), 4-1-2010)

4.03.100 - Appeals to LBCB.

A. In an appeal by a permit applicant from a decision of the designated city employee, the LBCB shall hear the appeal on the record made by the designated city employee. New evidence that could have been provided to the designated city employee during the application process may not be submitted as a part of the appeal to the LBCB. After receiving written arguments or oral argument, if permitted by the LBCB, from the applicant and the designated city employee, the LBCB shall determine whether, upon the record before the designated city employee at the time the appealed decision was made, there was substantial evidence to support the decision of the designated city employee.

B. In an appeal from a decision of the package store to refuse to sell, confiscate a permit, or to take or refuse to take other action, the aggrieved person shall file a written notice of appeal with the package store within seven calendar days of the delivery or mailing of the decision unless a longer period of time is permitted under this chapter. The package store shall immediately forward the notice of appeal to the LBCB.

C. In all appeals, the LBCB shall provide notice to the appellant whether oral arguments and testimony will be permitted and the date:

1. Upon which oral arguments and oral testimony will be heard, if permitted;
2. By which additional documents, if permitted, must be received; and
3. By which written arguments must be received.

The LBCB shall inform the appellant where the record on appeal may be reviewed and shall provide a copy to the appellant upon request and payment of any copying charges that apply.

D. The LBCB shall schedule the receipt of argument, testimony and documents to ensure that the appellant has reasonable time to prepare and make submission to the LBCB. The first request by

the appellant to extend a submission date or to reschedule an oral argument or testimony date shall be freely granted unless doing so would create a hardship for the designated city employee or the package store. Any additional extensions for appellant must be fully justified.

E. The LBCB may retain a hearing officer, who may be the city attorney or other appropriate city employee, to hear an appeal under this chapter. The hearing officer shall make scheduling and other procedural decisions and, after receipt of the written argument by the appellant and the designated city employee or package store, shall prepare a proposed decision for the LBCB. The proposed decision by the LBCB or the hearing officer shall set out the evidence in the record upon which the decision is based, a conclusion and an appropriate order. If the LBCB does assign a hearing officer to hear an appeal, the LBCB may accept and sign the proposed decision of the hearing officer, redraft or modify it before signing it or refer it back to the hearing officer for further specified action. Upon signing of the decision, it becomes the LBCB's decision.

F. If the LBCB hears and decides the appeal, it shall prepare a written decision setting out the evidence relied upon, conclusions and an appropriate order.

G. The LBCB's decision may be appealed to the superior court in accordance with the Alaska Rules of Appellate Procedure applicable to administrative decisions. The LBCB's decision shall contain such notice of the right of appeal as may be required by the Alaska Rules of Appellate Procedure.

(Ord. No. 10-04, § 3(Exh. B), 4-1-2010)

4.03.110 - Use and possession of permit.

A. A permittee may not authorize, permit or acquiesce in the use or possession, for any purpose, by another person of the permit issued to the permittee.

B. A permittee may not fail to prevent another person from possessing or using the city-issued permit of the permittee. It shall be a defense to a violation of this subsection if the permittee, upon discovery the loss of the permit or that the permit is in the possession of another person, immediately notified the city package store and the Kotzebue Police Department of the loss of the permit and the name of the person possessing the permit, if known.

C. A person other than the permittee may not possess or use or attempt to possess or use for any purpose, a permit issued under this chapter to another person.

D. The package store employee shall retain any permit displayed by a person who is not the permittee to whom the permit was issued.

E. Subsections A., B., C. and D. of this section do not apply when the permittee is a disabled person who has met the terms and conditions set by the LBCB for a disabled person's permit and who has been issued a disabled person's permit and the permit is in the possession of the person

designated on the permit as the permittee's qualified agent and the disabled person's qualified agent also has a valid permit under this chapter.

F. A person may not alter in any way a permit issued under this chapter.

G. A person may not make, by any means, an imitation or copy of a permit issued or authorized to be issued, under this chapter.

H. A person may not use or attempt to use for identification or any similar purpose a permit that has been altered or that is an imitation or copy of a permit issued or authorized to be issued, under this chapter.

I. A package store employee shall confiscate and retain any altered, copy or imitation permit displayed by the holder.

J. A package store employee, upon receiving the permit, shall confiscate and retain the permit of a person whose permit has been revoked or suspended.

K. The LBCB shall be promptly notified of the confiscation or retention of a permit by the package store.

(Ord. No. 10-04, § 3(Exh. B), 4-1-2010)

4.03.120 - Permit revocation or suspension.

A. The permit of a person shall be revoked or suspended upon a determination by the LBCB, or the LBCB's designee, that any of the following have occurred:

1. The permittee has allowed another person to use the permittee's permit for any purpose;
2. The permittee's permit has been altered, copied or used as the basis for the making of a false or imitation permit;
3. The permittee has been convicted of, pleaded guilty or no contest to any of the violations or is under a court order or on conditions as set out in Section 4.03.090.C.4.(a), (b) or (c) and Section 4.03.090.C.5.;
4. The permittee has used the permit of another person for any purpose;
5. The permittee submitted untrue or misleading statements or false, altered or misleading documents in connection with an application for a permit;
6. The permittee is no longer domiciled in Kotzebue; or
7. The permittee has violated any of the provisions of this chapter.

B. Upon receiving notice from the package store or a city officer or employee that any of the conditions set out in subsection A. of this section exist, the LBCB or the LBCB's designee shall immediately notify the permittee of the allegation and that the permit will be suspended or revoked ten days from the date the notice is mailed unless the permittee files an appeal to the LBCB. An appeal to the LBCB shall be processed as provided in Section 4.03.100.

C. Upon a finding that one or more of the conditions set out in Section 4.03.120.A. have occurred, the LBCB shall suspend or revoke the person's permit, as determined to be appropriate under the circumstances by the LBCB, or the LBCB's designee. The order of suspension or revocation shall state the length of time the suspension or revocation shall remain in effect and any additional requirements, including fines, the permittee must meet before a new permit may be issued to a person whose permit has been revoked. A suspended permit shall be retained by the LBCB and returned to the permittee when the period of suspension ends. A revoked permit shall be destroyed by the LBCB after the time for the appeal of the LBCB's decision has expired.

(Ord. No. 10-04, § 3(Exh. B), 4-1-2010)

4.03.130 - Prices, fees and charges.

The LBCB shall set prices or establish a mechanism for setting prices for all items sold in the package store, as well as all fees and charges for the operation of the package store. The city administration shall report, quarterly, to the city council on prices set by the city administration for the past quarter and prices anticipated for the upcoming quarter.

(Ord. No. 10-04, § 3(Exh. B), 4-1-2010; Ord. No. 12-05, § 4(Exh. C), 5-17-2012)

4.03.140 - Penalties for violations.

A. Upon a violation of this chapter, the person shall be fined and penalized in accordance with terms, conditions and penalties as set by regulations duly adopted by the LBCB and approved by the city council.

B. All outstanding conditions, penalties and fines must be satisfied and paid in full before a permit may be renewed or re-issued.

(Ord. No. 10-04, § 3(Exh. B), 4-1-2010)

4.03.150 - Severability.

If any provision of this chapter shall be declared invalid or void it shall not invalidate or void the other provisions of this chapter. Such invalid or void provisions shall be severed from this chapter and not adversely affect the lawful enforcement of the other provisions.

(Ord. No. 10-04, § 3(Exh. B), 4-1-2010)

Chapter 4.04 - ALCOHOLIC BEVERAGE DISPENSARY

Sections:

4.04.010 - Definitions.

When used in this chapter, all words and phrases have the meanings set out in Section 4.02.010, Definitions, of this title, unless the context in which the word or phrase is used clearly indicates a different meaning was intended.

(Ord. No. 12-01, § 2(Exh. A), 8-18-2011)

4.04.020 - Establishment.

A. There is established the Kotzebue Alcoholic Beverage Dispensary, which shall be at such location as the LBCB recommends and the city council approves.

B. No alcoholic beverages for consumption by the drink may be sold at retail locations anywhere within the city of Kotzebue except at the city-owned alcoholic beverage dispensary or city-owned restaurant or eating place established by Chapter 4.05 of this title.

(Ord. No. 12-01, § 2(Exh. A), 8-18-2011)

4.04.030 - Notice of establishment.

Upon the establishment of the alcoholic beverage dispensary under this chapter, the LBCB shall give notice of the establishment to the ABC board, as required by state law.

(Ord. No. 12-01, § 2(Exh. A), 8-18-2011)

4.04.040 - Alcoholic beverage dispensary operation responsibility.

A. As set forth in Section 4.01.150.B. of this title, the LBCB shall, subject to city council review and approval, have the power and duty to the maximum extent possible, subject to available funding, and as allowed by local, state and federal law, to establish and operate an alcoholic beverage dispensary.

B. The LBCB shall prescribe rules, policies and procedures, as approved by the city council, which are consistent with the provisions of this chapter, as it determines to be appropriate.

(Ord. No. 12-01, § 2(Exh. A), 8-18-2011)

4.04.050 - Alcoholic beverage dispensary hours of operation.

A. As set forth in Section 4.01.150.B. of this title, the LBCB, by regulation, shall establish a schedule of days and hours of operation for the alcoholic beverage dispensary as permitted by A.S. 04.16.010 and A.S. 04.21.010.

B. Through regulations, the LBCB may authorize additional, unscheduled hours of operation on a temporary basis to accommodate special situations, so long as those unscheduled hours of operation are consistent with A.S. 04.16.010, A.S. 04.16.070 and any local hours of operation established under A.S. 04.21.010.

(Ord. No. 12-01, § 2(Exh. A), 8-18-2011)

4.04.060 - Prices.

The LBCB, with the approval of the city council, shall set prices or establish a mechanism for setting prices for all items sold in the alcoholic beverage dispensary.

(Ord. No. 12-01, § 2(Exh. A), 8-18-2011)

4.04.070 - Penalties for violations.

Upon a violation of this chapter or the regulations adopted pursuant to this chapter, the person shall be fined and penalized in accordance with terms, conditions and penalties as set by regulations duly adopted by the LBCB and approved by the city council.

(Ord. No. 12-01, § 2(Exh. A), 8-18-2011)

4.04.080 - Severability.

If any provision of this chapter shall be declared invalid or void it shall not invalidate or void the other provisions of this chapter. Such invalid or void provisions shall be severed from this chapter and not adversely affect the lawful enforcement of the other provisions.

(Ord. No. 12-01, § 2(Exh. A), 8-18-2011)

Chapter 4.05 - ALCOHOLIC RESTAURANT OR EATING PLACE

Sections:

4.05.010 - Definitions.

When used in this chapter, all words and phrases have the meanings set out in Section 4.02.010, Definitions, of this title, unless the context in which the word or phrase is used clearly indicates a different meaning was intended.

(Ord. No. 12-01, § 3(Exh. B), 8-18-2011)

4.05.020 - Establishment.

A. There is established the Kotzebue Alcoholic Restaurant or Eating Place, which shall be at such location as the LBCB recommends and the city council approves.

B. No alcoholic beverages for consumption by the drink may be sold at retail locations anywhere within the city of Kotzebue except at the city-owned restaurant or eating place or at the city-owned alcoholic beverage dispensary established by Chapter 4.04 of this title.

(Ord. No. 12-01, § 3(Exh. B), 8-18-2011)

4.05.030 - Notice of establishment.

Upon the establishment of the alcoholic restaurant or eating place under this chapter, the LBCB shall give notice of the establishment to the ABC board, as required by state law.

(Ord. No. 12-01, § 3(Exh. B), 8-18-2011)

4.05.040 - Alcoholic restaurant or eating place operation responsibility.

A. As set forth in Section 4.01.150.B. of this title, the LBCB shall, subject to city council review and approval, have the power and duty to the maximum extent possible, subject to available funding, and as allowed by local, state and federal law, to establish and operate an alcoholic restaurant or eating place.

B. The LBCB shall prescribe rules, policies and procedures, as approved by the city council, which are consistent with the provisions of this chapter, as it determines to be appropriate.

(Ord. No. 12-01, § 3(Exh. B), 8-18-2011)

4.05.050 - Alcoholic restaurant or eating place hours of operation.

A. As set forth in Section 4.01.150.B. of this title, the LBCB, by regulation, shall establish a schedule of days and hours of operation for the alcoholic restaurant or eating place as permitted by A.S. 04.16.010 and A.S. 04.21.010.

B. Through regulations, the LBCB may authorize additional, unscheduled hours of operation on a temporary basis to accommodate special situations, so long as those unscheduled hours of operation are consistent with A.S. 04.16.010, A.S. 04.16.070 and any local hours of operation established under A.S. 04.21.010.

(Ord. No. 12-01, § 3(Exh. B), 8-18-2011)

4.05.060 - Prices.

The LBCB, with the approval of the city council, shall set prices or establish a mechanism for setting prices for all items sold in the restaurant or eating place.

(Ord. No. 12-01, § 3(Exh. B), 8-18-2011)

4.05.070 - Penalties for violations.

Upon a violation of this chapter or the regulations adopted pursuant to this chapter, the person shall be fined and penalized in accordance with terms, conditions and penalties as set by regulations duly adopted by the LBCB and approved by the city council.

(Ord. No. 12-01, § 3(Exh. B), 8-18-2011)

4.05.080 - Severability.

If any provision of this chapter shall be declared invalid or void it shall not invalidate or void the other provisions of this chapter. Such invalid or void provisions shall be severed from this chapter and not adversely affect the lawful enforcement of the other provisions.

(Ord. No. 12-01, § 3(Exh. B), 8-18-2011)

Chapter 4.06 - PROHIBITION OF PUBLIC INTOXICATION

Sections:

4.06.010 - Intent and purpose.

This section is intended to provide for the safety, welfare and health of the public. Being publicly intoxicated makes a person vulnerable to injury, robbery, assault, and a number of other dangers. This section addresses the behavior of the individual, rather than his or her blood alcohol content level, thus encouraging responsible behavior while consuming alcohol. This provides benefit to the individual and the public.

(Ord. No. 13-03(Amd.), § 2(Exh. A), 11-1-2012)

4.06.020 - Definitions.

1. "Incapacitated person" means a person who, as the result of the use of alcohol, drugs or another controlled substance, is unconscious or whose judgment is so impaired that he or she is incapable of making rational decisions, as evidenced objectively by indicators such as extreme physical debilitation, physical harm or threats of harm to himself/herself or to any other person or to property.

2. "Intoxicated person" means a person whose mental or physical functioning is impaired as a result of the use of alcohol, drugs or another controlled substance. Evidence of an intoxicated person shall include a combination of the following indicators:

(a) Odor of intoxicants on the breath;

(b) Bloodshot eyes;

(c) Dilated pupils;

- (d) Stumbling or staggering;
- (e) Slurred speech; and/or
- (f) Failure of Standard Field Sobriety Test.

3. "Public nuisance" means conduct by an individual that is:

- (a) A disturbance of the peace, including, but not limited to, endangering one's self or other persons or property;
- (b) Acting in an unruly or combative manner;
- (c) Creating loud noises to the disturbance of other persons;
- (d) Refusing to follow the instructions of a police officer;
- (e) Refusing to follow instructions to leave a residence or place of business by the owner, employee or other person in charge thereof; and/or
- (f) Otherwise disturbing the peace in any public place.

4. "Public place" means a place to which the public has access and includes, but is not limited to places owned or controlled by the city, borough or state; any public street, highway, sidewalk, parking lot, alley, parks, schools, places of worship and places of business. Places of business include premises open to the public where alcohol is consumed, including a licensed alcohol establishment, as provided pursuant to Chapter 4.04, Alcoholic Beverage Dispensary, and Chapter 4.05, Alcoholic Restaurant or Eating Place.

(Ord. No. 13-03(Amd.), § 2(Exh. A), 11-1-2012)

4.06.030 - Intoxication in public places prohibited.

No person in a public place shall conduct himself or herself in such a manner as to become an intoxicated or incapacitated person and to create a public nuisance.

(Ord. No. 13-03(Amd.), § 2(Exh. A), 11-1-2012)

4.06.040 - Penalty.

A. Persons found in violation for the first time shall be provided a one-time, written warning with conditions in lieu of a citation. The warning shall be conditioned on such person attending and successfully completing an alcohol education program approved by the city. All costs and expenses for such alcohol education program shall be paid by the person committing the violation. Failure to timely complete the city-approved, alcohol education program shall result in the issuance of a citation. Successful and timely completion of the alcohol education program

shall result in no further enforcement of the violation giving rise to the warning. Successful and timely completion shall be done within ninety days of the warning.

B. Any person violating the provisions of this section shall pay a fine of one hundred fifty dollars for the first offense. A second violation will be assessed a fine of three hundred dollars and result in suspension of the person's permit, if any, issued pursuant to Chapter 4.02 and/or Chapter 4.03 for a period of six months and payment of a two hundred dollar administrative fee before a permit is reissued. A third violation will be assessed a fine of five hundred dollars and result in a five-year revocation of the person's permit, if any, issued pursuant to Chapter 4.02 and/or Chapter 4.03 and payment of a three hundred dollar administrative fee before a new permit is issued. These fines and administrative fees are separate and apart from any fines and fees set out in Chapter 4.02 and/or Chapter 4.03 and the regulations adopted pursuant thereto.

(Ord. No. 13-03(Amd.), § 2(Exh. A), 11-1-2012)

4.06.050 - Appeal rights.

A person determined liable for fines and/or permit suspension and/or revocation under this chapter may, within thirty days of receipt of a notice of imposition of fines, apply for a hearing on the determination. The application shall be in writing and filed with the chief of police. The hearing shall be held within fifteen days of receipt of a timely application before the chief of police or his designee. The hearing shall be limited to the issue of whether the person is liable for the fines and administrative fees imposed under this chapter and/or the permit suspension and/or revocation. Within thirty days of the written decision of the chief of police, a person aggrieved by the decision may appeal to the Superior Court of the Second Judicial District, in Kotzebue, in accordance with the Alaska Rules of Appellate Procedure.

(Ord. No. 13-03(Amd.), § 2(Exh. A), 11-1-2012)

3.05.010 Advisory board—Established—Membership.

(a) There is established a Nome alcoholic beverage advisory board consisting of five members appointed for overlapping three-year terms. The mayor shall appoint the members of the board, subject to confirmation by the city council. The first board shall consist of one member appointed for a term of one year, two members appointed for terms of two years, and two members appointed for terms of three years. Successors to the members of the first board shall be appointed for three-year terms.

(b) All members of the board shall be residents of the city during the term of their appointment. Two members of the board may be actively engaged in the alcoholic beverage industry. No member of the board may hold any other municipal, state or federal office, either elective or appointive. No three members of the board may be engaged in the same business, occupation or profession.

(c) Three members of the board constitute a quorum for the conduct of business. The board shall meet at least once each year, and at such other times as directed by the city council. (Ord. O-93-6-6 § 1 (part), 1994)

3.05.020 Advisory board—Powers and authority.

(a) The board shall conduct studies and investigations to insure the proper administration of municipal liquor regulations in a manner that will protect the public health, safety and welfare, and shall report to the city council at least one time each year.

(b) The board shall be advisory by nature, and shall possess none of the legal powers or authorities of the city unless specifically delegated by ordinance hereafter. (Ord. O-93-6-6 § 1 (part), 1994)

3.05.030 Prohibitions.

(a) All laws and regulations of the state of Alaska regarding licensed alcoholic beverage sales, service, distribution, and consumption apply within the city of Nome unless otherwise stated, except that the city of Nome has not adopted the local option pursuant to AS [04.11.491](#).

(b) It is unlawful to carry or transport an open container of intoxicating liquor on the public streets, alleys, parks or other public places, except that an open container of intoxicating liquor

may be carried in a vehicle in a locked trunk or other secured location inaccessible to drivers and passengers of the vehicle.

(c) It is unlawful to consume intoxicating liquor on the public streets, alleys, parks or other public places, except as otherwise provided in NCO Section [3.05.070](#). (Ord. O-14-01-02 § 3, 2014)

3.05.035 Sale of intoxicating beverages permitted. 

The provisions of AS [04.16.070](#)(a) do not apply within the limits of the city when elections are being held. (Ord. 11-01-07 § 2, 2011)

3.05.040 Hours of sale. 

(a) No person may consume, sell, offer for sale, give, furnish or deliver from an authorized licensee of a package store license any intoxicating liquor on any such licensed package store premises between the hours of ten p.m. and eleven a.m. on Mondays through Saturdays, and between the hours of ten p.m. and one p.m. on Sundays.

(b) No person may consume, sell, offer for sale, give, furnish or deliver from an authorized licensee of any type of license provided in AS [04.11.080](#)(1) through (6) and (8) through (20), any intoxicating liquor on any such licensed premises between the hours of two a.m. and ten a.m. on Mondays through Fridays, three a.m. and ten a.m. on Saturdays, and three a.m. and one p.m. on Sundays.

(c) The exception to subsections (a) and (b) of this section shall be from the day the first dog team arrives in the city from the Iditarod Dog Sled Race until the day of the Iditarod Banquet, from the first day of the Iditarod Basketball Tournament until the day of the Iditarod Basketball Banquet, from the first day of the Iditarod Dart Tournament and Iditarod Pool Tournament until the day of the Iditarod Dart and Iditarod Pool Tournament Championship Game, and on New Year's Eve, when liquor establishments except package store license holders are authorized to remain open until five a.m. on the following day; provided, however, that no exception period described above shall exceed five days in total. On the Sunday of the Bering Sea Open Golf Tournament and on the Sunday known as "Super Bowl Sunday," liquor establishments described in subsection (b) of this section are authorized to open at ten a.m.

(d) The council may provide by resolution for other exceptions to subsection (b) of this section; provided, however, that no exception period under this section shall exceed five days in total. Exceptions authorized under this provision expire upon completion of any exception period. Permanent exceptions must be adopted by ordinance. (Ord. 11-01-07 § 3, 2011; Ord. O-99-1-7 § 2, 1999; Ord. O-93-6-6 § 1 (part), 1994)

3.05.050 Sale of nonbeverage items. 

(a) No person shall solicit or engage in the sale, barter or exchange of any item on the licensed premises, except that the licensee, or his or her employees or agents, may sell intoxicating liquors, other beverages, food items prepared on or for the licensed premises, tobacco supplies and the use of legal game equipment.

(b) It is unlawful for a licensee, his or her employees or agents, to permit a person who violates subsection (a) of this section to remain upon the licensed premises. If the licensee, or his or her employees or agents, has actual or constructive knowledge of a violation of subsection (a) of this section, he or she permits that person to remain if he or she fails to demand that that person leave the premises, or if such a demand is refused, fails to notify the Nome police department or Alaska State Troopers. As used in this subsection, “constructive knowledge” means the awareness a licensee, or his or her employees or agents, could have through the diligence in the operation of the licensed premises.

(c) The licensee premises occupied by a holder of a retail license or a beverage dispensary license or a roadhouse license shall not be connected by a door, opening or other means of passage for the purpose of sales or for the purpose of passage by the general public to any other retail business establishment. (Ord. O-93-6-6 § 1 (part), 1994)

3.05.060 Off-duty police. 

No off-duty law enforcement officer shall enter any licensed premises with a firearm in his or her possession. Officers engaged in surreptitious or undercover duties may enter licensed premises with a firearm, provided such a designation as surreptitious or undercover duties has been approved previously by a superior officer, and has been logged previously in an appropriate duty book as surreptitious or undercover law enforcement duties. (Ord. O-93-6-6 § 1 (part), 1994)

3.05.070 Consumption in public places—Exceptions. 

The city manager shall promulgate regulations governing the service and consumption of intoxicating liquor at group functions conducted in city parks and at municipal buildings and facilities. The regulations shall require that a permit be obtained and shall set qualifications for the issuance of a permit. All proposed regulations shall be approved by resolution by the city council. It shall be unlawful for any person to violate the regulations promulgated under this section. (Ord. O-93-6-6 § 1 (part), 1994)

3.05.080 Definitions.

As used in this chapter:

“Intoxicating liquor” means whiskey, brandy, rum, gin, wine, ale, porter, beer and all other spirituous, venous, malt or other fermented or distilled liquors intended for human consumption and containing more than one percent alcohol by volume.

“Licensed premises” means premises licensed under AS [04.11.080](#).

“Licensee” means the holder of any type of license classified by AS [04.11.080](#), any person responsible for the lawful conduct of the business licensed and all persons acting as agents or employees on the licensed premises.

“Minor” means any person under twenty-one years of age.

“Open container” means any original container or package without the internal revenue strip stamp intact upon the container or package; any original container or package that has been opened at least once since retaining purchase; and any container or package other than the original container or package. (Ord. O-93-6-6 § 1 (part), 1994)

3.05.090 Violation—Penalty.

(a) A person who violates any provision of this chapter is guilty of an infraction, and upon conviction shall be fined as set forth in NCO Section [1.20.040](#) or if no fine is there established, not more than five hundred dollars plus any surcharge required to be imposed by AS [12.55.039](#). Each violation is a separate offense.

(b) Upon conviction of a licensee for a violation of any provision of this chapter or of the laws or regulations of the state of Alaska pertaining to alcoholic beverages and operation of licensed premises, the city police department shall send a notification of conviction together with a

certified copy of the transcript of the trial proceeding and conviction to the Alaska Alcoholic Beverage Control Board. (Ord. O-14-01-02 § 4, 2014; Ord. O-99-11-3 § 3, 1998; Ord. O-99-11-2 § 2, 1998; Ord. O-98-1-3, 1998; Ord. O-93-6-6 § 1 (part), 1994)

Alaska Statutes Sec. 14.50.020. Definition of public schools for purposes of Statehood Act. Public schools, for the purpose of Public Law 85-508, 72 Stat. 339, 85th Congress, Second Session (Alaska Statehood Act), includes public elementary schools, public high schools, the University of Alaska, and other public educational institutions which may be established. Nothing in this section includes schools for Alaska aborigines under the control of the federal government and which are administered and supervised through the Department of the Interior or the United States Department of Health, Education, and Welfare.

20 AAC 30.985. Definitions In this chapter (1) "advisory panel" means a panel composed of professionals in a certain art form, knowledgeable members of the public, and designated council members convened to review an application to a council's grant program and provide a funding recommendation; (2) "arts organization" means a nonprofit organization whose primary mission, goal, or activity relates to presentation or production of an arts program, project, exhibition, service, or other activity relating to the arts; (3) "council" means the Alaska State Council on the Arts; (4) "fiscal year" has the definition of that term under [AS 37.05.990](#); (5) "full-time student" means a student who is enrolled in an accredited secondary or post-secondary program and who is carrying sufficient credits to be considered full time by the student's accredited institution; (6) "indirect costs" means overhead costs incurred for common or joint objectives not readily allocated to specific activities; (7) "in-kind contribution" is the estimated dollar value of service or material contributed to support a project or organization; for purposes of this paragraph, (A) service or material may be of almost any nature, but does not include a cash contribution; (B) the valuation of donated supplies may not exceed the fair market value of the property at the time of the donation; and (C) volunteer time must be calculated at a "fair market" price, that is, at a minimum wage that a person paid to do the same work would be paid; (8) "master artist" means a recognized traditional visual artist, master crafts worker, musician, dancer, storyteller, or singer; (9) "resident" means a person who is present in the state at the time of the application to the council and who intends to remain indefinitely; (10) "school" means a primary or secondary public or private school located in the state; (11) "sources of funding" means revenue from governmental, individual, private corporate sources, and projected income from services sold to the public; (12) repealed 7/1/2011; (13) "travel costs" means air fare or surface mileage at the rate accorded state employees, and does not include costs of tuition, workshop fees, per diem, or in-town transportation costs; (14) "tribal entity" means a tribal entity that the United

States Department of the Interior, Bureau of Indian Affairs, has recognized in this state and put on the list adopted by reference in 20 AAC 30.983(15).

Alaska Statutes

11.71.900 Definitions

(29) "school grounds" means a building, structure, athletic playing field, playground, parking area, or land contained within the real property boundary line of a public or private preschool, elementary, or secondary school;

AS 14.60.010. Definitions.

(6) "public schools" include elementary schools, high schools, citizenship night schools for adults, and other public educational institutions that may be established;

City of Bethel Action Memorandum

Action memorandum No.	15-47		
Date action introduced:	10-13-2015	Introduced by:	Vice Mayor Albertson
Date action taken:		<input type="checkbox"/> Approved	<input type="checkbox"/> Denied
Confirmed by:			

Directing Administration to enter into a Healthcare Broker contract with the Wilson Agency for healthcare broker services

Route to:	Department/Individual:	Initials:	Remarks:
<input checked="" type="checkbox"/>	Finance Director, Hansel Mathlaw		
<input checked="" type="checkbox"/>	City Attorney, Patty Burley	PB	Recommend Approval
<input type="checkbox"/>			
<input type="checkbox"/>			
<input type="checkbox"/>			

Attachment(s): Draft contract with Exhibit A; Draft notice to current insureds of change in +

Amount of fiscal impact:		Account information:
	No fiscal impact	
\$65,000	Funds are budgeted for.	54-50-644
	Funds are not budgeted. Budget modification is required.	

Summary:

Directing the City Manager to enter into a contract for brokerage services for health care services. This contract is a result of an extensive RFP process undertaken by the City of Bethel as a means to control health care costs and to come into compliance with the City's procurement code. Two responses were received and scored, a summary of which is below:

Frazier & Associates	Total Score: 1431	Average Score: 286.2
Wilson Agency	Total Score: 1753	Average Score: 350.6

Cost: Wilson Agency, \$51 per employee per month or roughly \$65,000 annually
 Frazier & Associates - Approximately \$61,000 annually**

** Did not fully disclose, figures had to be extrapolated from billings from third party administrator, life & disability policies and other bills currently paid.

**THE WILSON AGENCY, LLC
SERVICE AGREEMENT**

This Agreement, made as of 10/14/15, is between THE WILSON AGENCY, LLC (TWA), an Alaska limited liability company, and City of Bethel, a municipal corporation. The purpose of this agreement is to set out the terms under which TWA shall provide benefit management services, as hereinafter provided, to City of Bethel its affiliates.

1. **SERVICES TO BE PERFORMED:** TWA shall perform for City of Bethel the services set forth in Exhibit A, attached hereto and made a part hereof, (hereafter the "Services"). The performance of Services shall begin on 10/14/15 (the "Effective Date") to 10/31/18.

2. **PERFORMANCE** TWA shall provide the Services in a manner reasonably acceptable to City of Bethel , in accordance with policies, interpretations, rules, practices and procedures established by City of Bethel, provided that such terms and conditions are consistent with the services set forth in Exhibit A, and with all applicable laws and regulations. TWA shall not provide any legal services to City of Bethel nor shall it be responsible for providing the services of an independent accountant or auditor. While TWA will not provide any legal, independent accountant or auditor services to the City of Bethel, the City of Bethel will be relying on the advice and assistance of TWA in the selection of its healthcare related insurance coverage and the handling of all healthcare related claims.

3. **FEEES & COMMISSIONS.** For the Services City of Bethel shall pay, or cause its third party administrator to pay, TWA as follows:
 - 3.1. **MONTHLY FEES.** For all Services the monthly fee shall be paid by the Third Party Administrator \$51.00 per employee per month. There are no additional monthly fees at this time paid to TWA by City of Bethel
 - 3.2. **ENROLLED EMPLOYEES.** "Enrolled Employees" shall mean: (i) all employees of City of Bethel and its affiliates currently enrolled in City of Bethel's group medical plan and (ii) all former participants of City of Bethel's group medical plan enrolled in City of Bethel's present or prior plan pursuant to Consolidated Omnibus Budget Reconciliation Act ("COBRA"). The total number of Enrolled Employees will be determined by City of Bethel or its third party administrator each month.
 - 3.3. **ADJUSTMENTS.** If the actual number of Enrolled Employees during any given month is different from the number of Enrolled Employees for which payment has been received with respect to such month, any fee under or overpayment will generally be paid or credited, as case may be,

during the following month, but in no event later than the third month thereafter.

- 3.4. **THIRD PARTY COMMISSIONS.** TWA will not receive commissions from City of Bethel's carrier(s) for stop loss, life and disability coverage's.
 - 3.5. **FEE INCREASES.** For all Services the monthly fee shall be fixed for the duration of this Agreement. Upon any extensions or renewal of this Agreement, either party may propose a change to the current fee structure. Either Party may propose a change to the commission structure during open enrollment of employee benefits. Parties fail to agree on any such change within one hundred eighty (180) days of the initial proposal; either Party may terminate this Agreement without cause under paragraph 6.2.
4. **REIMBURSABLE EXPENSES.** TWA's normal scope of services includes four (4) face to face meetings with the TWA strategist (one overnight trip if needed), and two (2) face to face meetings with the TWA advisor at the City of Bethel per year. TWA shall be reimbursed for reasonable travel expenses at actual costs incurred for travel that is outside the normal scope of the services hereunder and has been preauthorized by City of Bethel. Reasonable travel expenses shall be limited to: (i) coach class airfare; (ii) rental car, mid size or smaller; (iii) lodging; (iv) meals and (v) incidentals. Reimbursements for lodging, meals and incidentals shall be limited to the GSA Per Diem rate for the travel destination. An original receipt is required for any travel expenditure exceeding twenty-five dollars (\$25.00). TWA shall be reimbursed for any out-of-pocket expenses related to printing and distribution (i.e. printing and postage costs), which have been preauthorized by City of Bethel
5. **TERM OF AGREEMENT:** The Services hereunder shall begin on the Effective Date or such later date as the Parties may agree, and continue until such time as this Agreement is terminated under Section 6.
6. **TERMINATION**
- 6.1. **TERMINATION BY MUTUAL AGREEMENT.** This Agreement may be terminated at any time upon mutual agreement of the Parties.
 - 6.2. **TERMINATION WITHOUT CAUSE.** This Agreement may be terminated by either Party without cause upon one hundred eighty (180) days prior written notice to the other Party.
 - 6.3. **TERMINATION FOR CAUSE.** This Agreement may be terminated by either Party ("**Non-Breaching Party**") if the other Party ("**Breaching Party**") materially breaches the terms of this Agreement or defaults in any of its obligations hereunder and fails to cure such breach or default within thirty (30) days after receipt of written notice detailing such breach or default.

- 6.4. **BANKRUPTCY.** If a petition under the Bankruptcy Code is filed by or against either Party and is not dismissed within thirty (30) days; or if either Party makes an assignment for the benefit of creditors, or if a receiver, trustee, liquidator or custodian is appointed for all or a substantial part of either Party's property, and the order of appointment is not vacated within thirty (30) days; or if either Party assigns or encumbers this Agreement contrary to the terms hereof; or if all or a substantial part of either Party's property is sequestered and the order of sequestration is not vacated within thirty (30) days, then the other Party shall have the right to terminate this Agreement at any time with ten (10) days prior written notice.
- 6.5. **DUTIES UPON TERMINATION OF AGREEMENT.** Upon termination of this Agreement, City of Bethel shall promptly pay any amounts due for services rendered up to the effective date of termination. Any remaining prepaid but unearned fees held by TWA shall be returned to City of Bethel. Provided TWA has not terminated this Agreement for cause, TWA shall work with City of Bethel in good faith to make an orderly transition of the Services to City of Bethel's selected third party provider. Such transition of services shall include, at no cost to City of Bethel, a transfer of data and any related records pertaining to City of Bethel's account in a format reasonably acceptable to City of Bethel.
7. **INDEMNIFICATION:** Each of the Parties shall indemnify the other as follows:
- 7.1 TWA shall indemnify, defend and hold City of Bethel harmless from and against all liability, including, without limitation, loss, costs of suit, penalties, damages of whatever kind, and attorneys' fees that may accrue to or be sustained by City of Bethel by reason of any suit, action, or claim, whether real or alleged, arising out of, in connection with, or incident to, the actions or omissions of TWA, its officers, directors, employees or agents, arising out of this Agreement;
- 7.2 City of Bethel shall indemnify, defend and hold TWA harmless from and against all liability, including, without limitation, loss, costs of suit, penalties, damages of whatever kind, and attorneys' fees that may accrue to or be sustained by TWA by reason of any suit, action, or claim, whether real or alleged, arising out of, in connection with, or incident to, the actions or omissions of City of Bethel, its officers, directors, employees or agents, arising out of this Agreement;
- 7.3 Notwithstanding paragraph 7.1. above, City of Bethel shall indemnify, defend and hold TWA harmless against all expense, loss, claim or judgment, including reasonable attorney's fees arising out of or resulting from TWA's performance of its services hereunder where TWA has adhered to the policies, interpretations, rules, practices and procedures made or established by City of Bethel or has otherwise performed the

Services without gross negligence or willful misconduct and in accordance with industry practices.

- 7.4 Notwithstanding paragraph 7.1. above, TWA shall indemnify, defend and hold City of Bethel harmless against all expense, loss, claim or judgment, including reasonable attorney's fees arising out of or resulting from the City's performance under this Agreement where the City has adhered to the advice, recommendations, interpretations, rules, practices and /or procedures made or established by TWA or has otherwise performed without gross negligence or willful misconduct and in accordance with industry practices.

8. **LIMITATION OF LIABILITY.** IN NO EVENT SHALL EITHER PARTY BE LIABLE HEREUNDER FOR ANY INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFIT) SUSTAINED BY EITHER PARTY OR ANY OTHER INDIVIDUAL OR ENTITY FOR ANY MATTER ARISING OUT OF OR PERTAINING TO THE SUBJECT MATTER OF THIS AGREEMENT EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. THE FOREGOING LIMITS OF LIABILITY SHALL NOT APPLY TO ANY INDEMNIFICATION OBLIGATIONS OF EITHER PARTY.

9. **INDEPENDENT CONTRACTOR.** The Parties are independent contractors. Neither Party is or shall be the employee, legal representative or agent of the other, nor shall either Party have the right or authority to assume, create, or incur any liability or any obligation of any kind on behalf of the other Party. Each Party shall be responsible for the withholding and payment of all applicable federal, state, and local taxes for its employees.

10. **CONFIDENTIAL INFORMATION.** TWA shall maintain as confidential and shall not disclose or use for purposes other than as intended in this Agreement, any of City of Bethel's health care, financial, business, customer, or other information of a confidential or proprietary nature (collectively, "**Confidential Information**") except to those employees, contractors, legal or financial consultants, or auditors of TWA who need to know such Confidential Information in connection with the performance of the Services hereunder. Confidential Information also includes any information disclosed that the substance of which or the circumstances surrounding its disclosure would lead a reasonable person to believe such information is confidential or proprietary. TWA shall protect such Confidential Information with no less care than it would exercise to protect its own confidential information of a like nature, and in all cases, at least a reasonable degree of care.

11. **ASSIGNMENTS:** TWA shall not assign nor delegate to any other person or entity the duties, obligations or responsibilities imposed upon it by this Agreement without the prior written approval of City of Bethel
12. **ENTIRE AGREEMENT: AMENDMENTS:** This Agreement, including the exhibits hereto and any amendments hereto, contains the entire agreement between the parties, and all prior proposals, discussions and writings by and between the parties and related to the subject matter hereof are superseded hereby.
13. **INVALIDITY:** If any provision of this Agreement or any portion thereof is declared invalid or unenforceable, the remaining provisions shall nevertheless remain in full force and effect.
14. **FORCE MAJEURE:** Neither TWA nor City of Bethel shall have any liability to the other for a failure of performance resulting from any cause beyond its control.
15. **EXHIBITS:** The exhibits hereto are incorporated into and are an integral part of this Agreement. In the event of any inconsistency between the terms of this Agreement and the terms of any exhibit hereto, the terms outlined in the exhibits shall prevail.
16. **AMENDMENTS:** No amendment or modification to this Agreement shall be effective unless in writing and executed by the Parties. Amendments shall reference the provisions of this Agreement that are being modified. The terms and conditions set forth in any amendments shall supersede this Agreement, effective from the date of the amendment.
17. **NON-WAIVER/DELAY:** No failure or delay on the part of either party in exercising any right, power, or privilege shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power, or privilege. Unless expressly provided otherwise, the remedies set forth herein are cumulative and not exclusive of any rights or remedies that either party would otherwise have.
18. **BINDING ON SUCCESSORS:** City of Bethel and TWA each binds itself, its successors, assigns, and legal representatives to the other party hereto in respect to all covenants, contracts, representations, and obligations contained in this Agreement.
19. **NOTICES.** Any notice which under the terms of this Agreement must or may be given or made by either Party hereunder shall be in writing and shall be delivered personally, sent by express courier service, or sent by

certified U.S. mail, postage paid and return receipt requested. Notices shall be deemed to have been received as of the earlier of the date of actual receipt or, in case of notices sent via U.S. mail, three (3) days after mailing. A signed receipt shall be obtained where a notice is delivered in person. Either Party may change its address for notices by proper notice thereof.

If to City of Bethel :
City of Bethel
Attn: City Manager
P.O. Box 1388
Bethel, AK 99559

With a Copy to:
City of Bethel
Attn: City Attorney
P.O. Box 1388
Bethel, AK 99559

If to TWA:
THE WILSON AGENCY, LLC
Attn: Jennifer W. Bundy-Cobb
3000 A Street, Suite 400
Anchorage, AK 99503

With a Copy to:
THE WILSON AGENCY, LLC
Attn: Lon G. Wilson
3000 A Street, Suite 400
Anchorage, AK 99503

- 20. RESOLUTION OF DISPUTES:** This Agreement shall be construed in accordance with and governed by the laws of the State of Alaska. Any disputes regarding the execution or operation of this Agreement shall be resolved by confidential binding arbitration in accordance with the Commercial Dispute Resolution Procedures of the American Arbitration Association (AAA) or such other procedures as may be agreed upon. A neutral arbitrator agreed upon by all parties shall conduct all arbitration proceedings. The decision of the arbitrator shall be final. The costs of arbitration shall be borne equally by the parties. Prior to arbitration, the parties shall first attempt to resolve the dispute through confidential non-binding mediation in accordance with the Commercial Dispute Resolution Procedures of the AAA or such other procedures as may be agreed upon. If a party refuses to participate in Arbitration, or if necessary to enforce an award in Arbitration or any other term of this Agreement, legal action may be brought in the Superior Court in the Third Judicial District, in Anchorage, Alaska and the prevailing party shall be awarded its reasonable attorney's fees and costs in such action.
- 21. INTERPRETATION:** Captions for sections and paragraphs shall not affect the interpretation of this Agreement. The parties have negotiated the terms of this Agreement with the advice of counsel, and no ambiguity in this Agreement shall be construed against the Party that drafted the Agreement.

22. NO THIRD PARTY BENEFICIARIES. Except as otherwise provided herein, this Agreement shall not be construed to provide any third party with any remedy, claim, right of action, or other right.

23. INSURANCE. TWA shall maintain the following insurance coverage through the entire term of this Agreement:

- Errors and Omissions insurance coverage - with a minimum limit of \$1,000,000 per occurrence;
 - Commercial General Liability – occurrence form, with coverage for: (a) Premises/Operations, (b) Products and Completed Operations; (c) Broad form property damage; (d) Personal and advertising injury; (e) Contractual liability. Minimum limit of \$1,000,000 per occurrence, \$2,000,000 aggregate;
 - Workers Compensation – as required by Alaska Law;
 - Crime/Employee Dishonesty – no less than \$500,000 per occurrence;
 - Supplemental Umbrella/Excess Liability – limit of not less than \$1,000,000 per occurrence;
 - Cyber Liability – limit of not less than \$2,000,000 per occurrence;
 - Auto Liability – owned auto, non-owned auto liability and hired auto liability if applicable. Suggested \$1,000,000 combined single limit.
- TWA to provide copies of the above policies to the City annually.

24. NON-DISCRIMINATION. TWA shall not discriminate against any employee, contractor or City of Bethel staff because of race, color, religion, sex, sexual orientation, gender identification, marital status, ancestry, disability, national origin physical handicap, age, religion, religious opinions, political affiliation, genetic information, status as a disabled veteran or veteran of the Vietnam Era war.

City of Bethel
Name: Ann K. Capela
Title: City Manager

THE WILSON AGENCY, LLC
Name: Jennifer W. Bundy-Cobb
Title: Vice President

Signed:

Date:

Signed:

Date

Exhibit A

Advisor Services

1. Strategic Services

- a) Establish short and long-term goals and targets for benefit plans and their role at City of Bethel
- b) Review workforce needs and trends to develop a benefits program that supports the overall business objectives
- c) Conduct regular meetings to solicit key stakeholder feedback

2. Ongoing Evaluation of Financial Position of City of Bethel Self-Funded Plan; Quarterly Review Meetings to Include

- a) Evaluate funding levels and expenses, including incurred claims, administrative and reserve expenses
- b) Model optional benefit designs and provide corresponding funding levels
- c) Monitor, both prospectively and retrospectively, financial impacts to proposed and approved benefit modifications
- d) Evaluate key utilization data for major medical and prescription claims
- e) As needed summarize data and provide recommendations based on predictive modeling tools
- f) As necessary provide input and recommendations regarding benefit design

3. Lifestyle Management and Value Plan Design

- a) Identify opportunities for plan design change through data analytics
- b) Discuss methods for promoting employee engagement
- c) Provide recommendations for wellness programs including services already incorporated into insurance products
- d) Assist with finding wellness program managers
- e) Assist in providing reporting for wellness programs
- f) Assist with the coordination of wellness fairs
- g) Assist with biometric screenings

4. Assistance with Plan Administration

- a) Provide training support to Human Resources and Benefits staff and mentorship, as requested
- b) Provide access to ERISA counsel and, if necessary, assist in the coordination of legal teams
- c) Assist in handling and researching issues generated by claim appeals
- d) Assist with training of Appeals Committee members
- e) Participate in Appeals Committee meetings
- f) Develop and make recommendations for funding levels, including the development of rates for active and COBRA participants, as requested
- g) Participate in interviews for candidates to fill Benefits and Human Resources positions, as needed

Exhibit A

Advisor Services

- h) Maintain records of all material documents and correspondence pertaining to services provided to the City of Bethel by TWA, within the requirements of state and federal law

5. Legislative and Regulatory Compliance

- a) Assist in developing and maintaining compliant policies and procedures with respect to HIPAA, COBRA and other statutes and regulations
- b) Provide support with the filing requirements associated with ERISA, the IRS and DOL
- c) Assistance in completing Health and Welfare Form 5500 Reports
- d) Provide access to an online library of compliance webinars and publications
- e) Provide guidance for HIPAA training and compliance

6. Insurance and Managed Care Contract Review

- a) Review and evaluate contracts and pricing for suitability
- b) Provide oversight for new contracts
- c) Make recommendations for funding (employer vs. employee paid)
- d) Market the managed care contracts as necessary
- e) Seek out new and alternative cost-containment programs
- f) Manage rate negotiations with carriers

7. Benchmarking and Analytical Services

- a) Participate in UBA Health Plan Survey
- b) Provide benchmarking for the current plan design, premiums and contributions

8. Third Party Administration (TPA)

- a) Facilitate strategic planning session with the TPA
- b) Monitor, evaluate and make recommendations concerning TPA performance
- c) Facilitate audits as requested
- d) Market plan to potential TPAs, as necessary
- e) Review and negotiate fees, including the following:
 - i. General administrative services
 - ii. Care facilitation
 - iii. PPO re-pricing
 - iv. COBRA/HIPAA administration
 - v. HSA/HRA administration

Exhibit A Advisor Services

9. Project Oversight and Management for Third Party Bids as Requested

- a) Draft and submit Request for Proposal to approved vendor list
- b) Monitor the bidding process
 - i. Facilitate bidders' conference
 - ii. Handle all bidder questions
- c) Collect and review all proposals
- d) Submit list of recommended finalists
- e) Facilitate and attend on-site meetings or visitations of finalists
- f) Assist with final decision
- g) Handle communication with all winning and non-winning bidders

10. Third-Party Vendor Implementation (When Transition Occurs) and Prescription Benefit Management (PBM)

- a) Facilitate strategic planning session with new vendor
- b) Monitor implementation timeline
- c) Assist in member communication issues
- d) Monitor and track the transfer of information and data from incumbent to the new vendor
- e) Facilitate periodic conference calls prior to and following the effective date
- f) Review and provide comments on the new vendor's contract
- g) Facilitate the transfer of corollary documentation to the new vendor

11. PPO Contracting

- a) Assist in the evaluation, coordination, negotiation, and execution of PPO Agreements
- b) Assist other parties (TPA) in the promotion of PPO networks
- c) Assess the PPO's current financial outcomes and impact of contract changes
- d) Oversee comparison of PPO networks

12. Actuarial Services

- a) Set actuarial levels of incurred claims; determine completion ratio and factors
- b) Develop appropriate trend estimates for renewal forecasts
- c) Periodically determine the IBNR levels, in accordance to IRS and DOL guidelines
- d) Provide recommendation of best practices for IBNR management

Exhibit A Advisor Services

13. Employee Communications and Customer Service

- a) Provide access to templates for employee communications and, as requested, assist in the distribution of annual open enrollment guides and monthly newsletters
- b) Participate and assist in employee meetings and/or webinars
- c) Assist with development of employee surveys as requested
- d) Access to The Wilson Agency Client service team for resolution of challenging claim problems

14. Additional Resources

- a) Access to an online library of compliance webinars and publications
- b) HR webinars
- c) Wellness webinars
- d) Access to the following tools and resources:
 - i. The Wilson Agency web site
 - ii. Full service HR suite of resources (Think HR)
- e) Weekly Wellness newsletter

15. Management Meetings

- a) Meetings with the Executive team, as needed
- b) Meetings with the Steering Committees, as needed
- c) Meetings with the HR team, as needed
- d) Periodic meetings and presentations to other committees, as requested

September 21, 2015

To Whom It May Concern:

We have appointed The Wilson Agency, LLC as our exclusive insurance agent/broker for the insurance policies referenced below. The appointment of The Wilson Agency, LLC rescinds all previous appointments and the authority contained herein shall remain in full force until canceled in writing.

The Wilson Agency, LLC is hereby authorized to negotiate directly with any interested company with respect to the coverage provided by the policies referenced below. We understand, however, that they have no responsibility for any deficiencies in the insurance program to which this letter applies until they have had a reasonable opportunity to make a review and to provide us with their recommendations.

This letter also constitutes your authority to furnish any Wilson Agency, LLC representative with all information they may request as it pertains to our insurance contract, rates, rating schedules, claims experience, reserves, retentions and all other financial data they may wish to obtain for their study of our present and future requirements in connection with the insurance program to which this letter applies. We request that you do not communicate such information to anyone else.

Sincerely,

Signature _____

Printed Name _____

Title _____

Policy _____

Company _____

BUSINESS ASSOCIATE AGREEMENT

THIS AGREEMENT is made as by and between _____ (“Covered Entity”) and The Wilson Agency, LLC (“Business Associate”) pursuant to the implementation specifications of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and the Health Information Technology for Economic and Clinical Health Act, Pub. L. 111-5 (“HITECH”).

WHEREAS, Covered Entity is a group health plan as defined in the Privacy Rule adopted pursuant to HIPAA; and

WHEREAS, Business Associate is an insurance broker, agent or consulting that provides services and advice to Covered Entity, as well as plan sponsors and group health plans, on matters related to employee benefits; and

WHEREAS, Business Associate has been retained by the Covered Entity to perform a function or activity on behalf of the Covered Entity that requires that the Business Associate have access to Protected Health Information (“PHI”); and

WHEREAS, the parties wish to set forth their understandings with regard to the use and disclosure of PHI by the Business Associate in performance of its obligations.

NOW, THEREFORE, in consideration of the mutual promises set forth below, the parties hereby agree as follows:

1. Definitions.

- (a) *Breach*. “Breach” shall have the same meaning as the term “breach” in 45 CFR § 164.402.
- (b) *Breach Notification Rule*. “Breach Notification Rule” shall mean the Standards and Implementation Specifications for Notification of Breaches of Unsecured Protected Health Information in 45 CFR Parts 160 and 164, subparts A and D.
- (c) *Individual*” shall have the same meaning as the term “individual” in 45 CFR §164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).
- (d) *Privacy Rule*” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.
- (e) *Protected Health Information*” shall have the same meaning as the term “protected health information” in 45 CFR §164.501, but shall be limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- (f) *Required By Law*” shall have the same meaning as the term “required by law” in 45 CFR §164.501.
- (g) *Secretary*” shall mean the Secretary of the Department of Health and Human Services or his designee.

- (h) *Security Incident*. "Security Incident" shall have the same meaning as the term "security incident" in 45 CFR § 164.304.
- (i) "*Security Rule*" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Parts 160, 162 and 164.

2. Obligations and Activities of Business Associate

- (a) Business Associate agrees to not use or further disclose Protected Health Information other than as permitted or required by Law.
- (b) Business Associate agrees to use appropriate safeguards, including without limitation administrative, physical, and technical safeguards, to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement and to reasonably and appropriately protect the confidentiality, integrity, and availability of any electronic Protected Health Information that it may receive, maintain, or transmit on behalf of the Covered Entity.
- (c) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate or one of its agents or subcontractors in violation of the requirements of this Agreement.
- (d) Business Associate agrees to comply with the Security Rule in a manner consistent with HITECH and implementing regulations that may be adopted by relevant federal agencies, to keep all electronic Protected Health Information in a secure manner.
- (e) Business Associate agrees to report to Covered Entity any use or disclosure of Protected Health Information not provided for by this Agreement of which it becomes aware, including a Security Incident or Breach of unsecured Protected Health Information both in accordance with the timeliness and notification standards set forth in 45 CFR §164.410.
- (f) Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.
- (g) Business Associate agrees to provide access, at the request of Covered Entity, and in the time and manner designated by Covered Entity, to Protected Health Information in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 CFR §164.524, subject also to the terms of HITECH.
- (h) Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR §164.526 at the request of Covered Entity or an Individual, and in a reasonable time and manner designated by Covered Entity.
- (i) Business Associate agrees to make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received

by Business Associate on behalf of, Covered Entity available to the Covered Entity, or at the request of the Covered Entity to the Secretary, in a reasonable time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy & Security Rules.

- (j) Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR §164.528, subject also to the terms of HITECH.
- (k) Business Associate agrees to provide to Covered Entity or an Individual, in a reasonable time and manner designated by Covered Entity, information collected in accordance with Section 2(g) of this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR §164.528.

3. Permitted Uses and Disclosures by Business Associate.

Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity provided that such use or disclosure would not violate the Privacy & Security Rule or HITECH if done by Covered Entity. Business Associate is permitted to use and disclose PHI to provide the following services:

- Evaluation of the financial position of a plan
 - Providing insurance and service
 - Contract review
 - Assisting with plan administration matters
 - Interaction with Trustees and/or plan sponsors
 - PPO contract negotiation;
 - Actuarial work
 - Any other services reasonable and necessary to serve the covered entities needs.
- (a) Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
 - (b) Except as otherwise limited in this Agreement, Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

4. Obligations of the Covered Entity.

- (a) Covered Entity shall provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with 45 CFR §164.520, as well as any changes to such notice.
- (b) Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose Protected Health Information, if such changes affect Business Associate's permitted or required uses and disclosures.
- (c) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR §164.522, if such changes affect Business Associate's permitted or required uses and disclosures.

5. Permissible Requests by the Covered Entity.

Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy & Security Rule or HITECH if done by Covered Entity.

6. Term and Termination.

- (a) Term. The Term of this Agreement shall be effective as of the Effective Date (as defined below), and shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section.
- (b) Termination for Cause. If Covered Entity or Business Associate learns of a material breach by the other party, it shall:
 - 1. provide the breaching party with a reasonable opportunity to cure the breach within time period specified by the non-breaching party, or
 - 2. terminate this Agreement immediately upon written notice to the breaching party that it has breached a material term of this Agreement and there is no possible cure. If neither termination nor cure is feasible, the non-breaching party shall report the violation to the Secretary.
- (c) Effect of Termination.
 - 1. Except as provided in paragraph (2) of this section, upon termination of this Agreement for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.

2. In the event that Business Associate reasonably determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon Business Associate's reasonable determination that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

(d) Effective Date. The effective date of this Agreement (the "Effective Date") shall be _____.

7. Miscellaneous.

(a) Regulatory References. A reference in this Agreement to a section in the Privacy & Security Rule means the section as in effect or as amended, and for which compliance is required.

(b) Indemnification. Business Associate agrees to indemnify, defend and hold harmless Covered Entity, its shareholders, directors, officers, agents, employees, successors and assigns from and against any and all liability, claims, loss, injury, cause of action and expense (including reasonable defense costs and legal fees) of any nature whatsoever arising or resulting from: (i) the failure of Business Associate, its officers, agents, or employees, to perform any of the duties or responsibilities specified in this Agreement; and/or (ii) the gross negligence and/or intentional misconduct of Business Associate, its officers, agents or employees. Covered Entity agrees to indemnify, defend and hold harmless Business Associate, its shareholders, directors, officers, agents, employees, successors and assigns from and against any and all liability, claim, loss, injury, cause of action and expense (including reasonable defense costs and legal fees) of any nature whatsoever arising or resulting from: (i) the failure of Covered Entity, its officers, agents, or employees to perform any of the duties or responsibilities specified in this Agreement; (ii) actions taken by Business Associate at the direction of the Covered Entity or resulting from the conduct of the Covered Entity; and/or (iii) the gross negligence and or intentional misconduct of Covered Entity, its officers, agents or employees.

(c) Remedies. The parties acknowledge that breach of this Agreement may cause irreparable harm for which there is no adequate remedy at law. In the event of a breach, or a party has actual notice of an intended breach by the other party, the non-breaching party shall be entitled to seek specific performance and/or an injunction refraining the breaching party from violating or further violating this Agreement. Unless expressly provided otherwise, the remedies set forth herein are not exclusive of any rights or remedies that either party would otherwise have in law or equity.

(d) Amendment. The Parties agree to take such action as is necessary to amend the Agreement from time to time as is necessary for Covered Entity or Business Associate to comply with the requirements of the Privacy and Security Rules, HIPAA and HITECH; provided, however, that no amendment shall be deemed valid unless signed by both parties.

- (e) Survival. The respective rights and obligations of the parties under Sections 6(c), 7(b), 7(c) and 7(j) of this Agreement shall survive the termination of this Agreement.
- (f) Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits the parties to comply with the Privacy and Security Rules and HITECH.
- (g) Governing Law; Conflict. This Agreement shall be enforced and construed in accordance with the laws of the State of Alaska. Jurisdiction of any litigation with respect to this Agreement shall be in Alaska, with venue in a court of competent jurisdiction located in Anchorage. In the event of a conflict between the terms of this Agreement and the terms of any Underlying Agreements, the terms of this Agreement shall control.
- (h) Notices. Any notice given under this Agreement must be in writing and delivered via first class mail, via reputable overnight courier service, or in person to the parties' respective addresses as first written above or to such other address as the parties may from time to time designate in writing.
- (i) Assigns. Neither this Agreement nor any of the rights, benefits, duties, or obligations provided herein may be assigned by any party to this Agreement without the prior written consent of the other party.
- (j) Third Party Beneficiaries. Nothing in this Agreement shall be deemed to create any rights or remedies in any third party.
- (k) Waivers. The failure of either party to enforce any provision of this Agreement will not constitute a waiver of such party's rights to subsequently enforce the provision.
- (l) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original for all purposes but all of which taken together shall constitute only one instrument. Signed facsimile and electronic copies of this Agreement shall legally bind the parties to the same extent as original documents
- (m) Severability. If any provision of this Agreement will be held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable
- (n) Entire Agreement. This Agreement is the complete agreement between the parties concerning the subject matter of this Agreement and replaces any prior oral or written communications between the parties. There are no conditions, understandings, agreements, representations or warranties (express or implied) which are not specified herein.

The parties hereby acknowledge that they have read this agreement, understand it, and agree to be bound by its terms.

IN WITNESS WHEREOF, the undersigned have executed this Agreement, this ____ day of _____, 20____.

Company Name (“Covered Entity”):

By: _____ (name)

_____ (title)

The Wilson Agency, LLC
(“Business Associate”)

By: _____ (name)

_____ (title)

THE WILSON AGENCY, LLC SERVICE AGREEMENT

This Agreement, made as of 10/14/15, is between THE WILSON AGENCY, LLC (TWA), an Alaska limited liability company, and City of Bethel, a municipal corporation. The purpose of this agreement is to set out the terms under which TWA shall provide benefit management services, as hereinafter provided, to City of Bethel. ~~its affiliates.~~

1. SERVICES TO BE PERFORMED: TWA shall perform for City of Bethel the services set forth in Exhibit A, attached hereto and made a part hereof, (hereafter the "Services"). The performance of Services shall begin on 10/31/15 (the "Effective Date") to 10/31/18.
2. PERFORMANCE TWA shall provide the Services in a manner reasonably acceptable to City of Bethel, in accordance with policies, interpretations, rules, practices and procedures established by City of Bethel, provided that such terms and conditions are consistent with the services set forth in Exhibit A, and with all applicable laws and regulations. TWA shall not provide any legal services to City of Bethel nor shall it be responsible for providing the services of an independent accountant or auditor. While TWA will not provide any legal, independent accountant or auditor services to the City of Bethel, the City of Bethel will be relying on the advice and assistance of TWA in the selection of its healthcare related insurance coverage and the handling of all healthcare related claims.
3. FEES & COMMISSIONS. For the Services City of Bethel shall pay, or cause its third party administrator to pay, TWA as follows:
 - 3.1. MONTHLY FEES. For all Services the monthly fee shall be paid by the Third Party Administrator \$51.00 per employee per month. There are no additional monthly fees at this time paid to TWA by City of Bethel
 - 3.2. TWA shall be responsible for negating and obtaining lower rates for the insurance products equal to or higher to that of fees and reimbursable expenses paid to TWA by the City.
 - 3.3. ENROLLED EMPLOYEES. "Enrolled Employees" shall mean: (i) all employees of City of Bethel ~~and its affiliates~~ currently enrolled in City of Bethel's group medical plan and (ii) all former participants of City of Bethel's group medical plan enrolled in City of Bethel's present or prior plan pursuant to Consolidated Omnibus Budget Reconciliation Act ("COBRA"). The total number of Enrolled Employees will be determined by City of Bethel or its third party administrator each month.

- 3.4. ADJUSTMENTS. If the actual number of Enrolled Employees during any given month is different from the number of Enrolled Employees for which payment has been received with respect to such month, any fee under or overpayment will generally be paid or credited, as case may be, during the following month, but in no event later than the third month thereafter.
- 3.5. THIRD PARTY COMMISSIONS. TWA will not receive any fees reimbursable expenses or commissions from City of Bethel's carrier(s) for stop loss, life, and disability or other insurance products coverage's.
- 3.6. FEE INCREASES. For all Services the monthly fee shall be fixed for the duration of this Agreement. Upon any extensions or renewal of this Agreement, either party may propose a change to the current fee structure. Either Party may propose a change to the commission fee structure after the first anniversary of this agreement during open enrollment of employee benefits. Parties fail to agree on any such change within one hundred eighty (180) days of the initial proposal; either Party may terminate this Agreement without cause under paragraph 6.2.
4. REIMBURSABLE EXPENSES. TWA's normal scope of services includes four (4) face to face meetings with the TWA strategist (one overnight trip if needed), and two (2) face to face meetings with the TWA advisor at the City of Bethel per year. TWA shall be reimbursed for reasonable travel expenses at actual costs incurred for travel that is outside the normal scope of the services hereunder and has been preauthorized by City of Bethel. Reasonable travel expenses shall be limited to: (i) coach class airfare; (ii) rental car, mid size or smaller; (iii) lodging; (iv) meals and (v) incidentals. Reimbursements for lodging, meals and incidentals shall be limited to the GSA Per Diem rate for the travel destination. An original receipt is required for any travel expenditure exceeding twenty-five dollars (\$25.00). TWA shall be reimbursed for any out-of-pocket expenses related to printing and distribution (i.e. printing and postage costs), which have been preauthorized by City of Bethel
5. TERM OF AGREEMENT: The Services hereunder shall begin on the Effective Date or such later date as the Parties may agree, and continue until such time as this Agreement is terminated under Section 6.
6. TERMINATION
- 6.1. TERMINATION BY MUTUAL AGREEMENT. This Agreement may be terminated at any time upon mutual agreement of the Parties.
- 6.2. TERMINATION WITHOUT CAUSE. This Agreement may be terminated by either Party without cause upon one hundred eighty (180) days prior written notice to the other Party.
- 6.3. TERMINATION FOR CAUSE. This Agreement may be terminated by either

Party ("Non-Breaching Party") if the other Party ("Breaching Party") materially breaches the terms of this Agreement or defaults in any of its obligations hereunder and fails to cure such breach or default within thirty (30) days after receipt of written notice detailing such breach or default.

- 6.4. BANKRUPTCY. If a petition under the Bankruptcy Code is filed by or against either Party and is not dismissed within thirty (30) days; or if either Party makes an assignment for the benefit of creditors, or if a receiver, trustee, liquidator or custodian is appointed for all or a substantial part of either Party's property, and the order of appointment is not vacated within thirty (30) days; or if either Party assigns or encumbers this Agreement contrary to the terms hereof or if all or a substantial part of either Party's property is sequestered and the order of sequestration is not vacated within thirty (30) days, then the other Party shall have the right to terminate this Agreement at any time with ten (10) days prior written notice.

6.5. DUTIES UPON TERMINATION OF AGREEMENT. Upon termination of this Agreement, City of Bethel shall promptly pay any amounts due for services rendered up to the effective date of termination. Any remaining prepaid but unearned fees held by TWA shall be returned to City of Bethel. Provided TWA has not terminated this Agreement for cause, TWA shall work with City of Bethel in good faith to make an orderly transition of the Services to City of Bethel's selected third party provider. Such transition of services shall include, at no cost to City of Bethel, a transfer of data and any related records pertaining to City of Bethel's account in a format reasonably acceptable to City of Bethel.

7. INDEMNIFICATION: Each of the Parties shall indemnify the other as follows:
- 7.1 TWA shall indemnify, defend and hold City of Bethel harmless from and against all liability, including, without limitation, loss, costs of suit, penalties, damages of whatever kind, and attorneys' fees that may accrue to or be sustained by City of Bethel by reason of any suit, action, or claim, whether real or alleged, arising out of, in connection with, or incident to, the actions or omissions of TWA, its officers, directors, employees or agents, arising out of this Agreement;
- 7.2 City of Bethel shall indemnify, defend and hold TWA harmless from and against all liability, including, without limitation, loss, costs of suit, penalties, damages of whatever kind, and attorneys' fees that may accrue to or be sustained by TWA by reason of any suit, action, or claim, whether real or alleged, arising out of, in connection with, or incident to, the actions or omissions of City of Bethel, its officers, directors, employees or agents, arising out of this Agreement;

- 7.3 Notwithstanding paragraph 7.1. above, City of Bethel shall indemnify, defend and hold TWA harmless against all expense, loss, claim or judgment, including reasonable attorney's fees arising out of or resulting from TWA's performance of its services hereunder where TWA has adhered to the policies, interpretations, rules, practices and procedures made or established by City of Bethel or has otherwise performed the services without gross negligence or willful misconduct and in accordance with industry practices.
- 7.4 Notwithstanding paragraph 7.1. above, TWA shall indemnify, defend and hold City of Bethel harmless against all expense, loss, claim or judgment, including reasonable attorney's fees arising out of or resulting from the City's performance under this Agreement where the City has adhered to the advice, recommendations, interpretations, rules, practices and /or procedures made or established by TWA or has otherwise performed without gross negligence or willful misconduct and in accordance with industry practices.
8. LIMITATION OF LIABILITY. IN NO EVENT SHALL EITHER PARTY BE LIABLE HEREUNDER FOR ANY INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFIT) SUSTAINED BY EITHER PARTY OR ANY OTHER INDIVIDUAL OR ENTITY FOR ANY MATTER ARISING OUT OF OR PERTAINING TO THE SUBJECT MATTER OF THIS AGREEMENT EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. THE FOREGOING LIMITS OF LIABILITY SHALL NOT APPLY TO ANY INDEMNIFICATION OBLIGATIONS OF EITHER PARTY.
9. INDEPENDENT CONTRACTOR. The Parties are independent contractors. Neither Party is or shall be the employee, legal representative or agent of the other, nor shall either Party have the right or authority to assume, create, or incur any liability or any obligation of any kind on behalf of the other Party. Each Party shall be responsible for the withholding and payment of all applicable federal, state, and local taxes for its employees.
10. CONFIDENTIAL INFORMATION. TWA shall maintain as confidential and shall not disclose or use for purposes other than as intended in this Agreement, any of City of Bethel's health care, financial, business, customer, or other information of a confidential or proprietary nature (collectively, "Confidential Information") except to those City Employees, contractors, legal or financial consultants, or auditors of TWA who need to know such Confidential Information in connection with the performance of the Services hereunder. Confidential Information also includes any information disclosed that the substance of which or the circumstances surrounding its disclosure would lead a

reasonable person to believe such information is confidential or proprietary. TWA shall protect such Confidential Information with no less care than it would exercise to protect its own confidential information of a like nature, and in all cases, at least a reasonable degree of care.

11. ASSSIGNMENTS: TWA shall not assign nor delegate to any other person or entity the duties, obligations or responsibilities imposed upon it by this Agreement without the prior written approval of City of Bethel
12. ENTIRE AGREEMENT: AMENDMENTS: This Agreement, including the exhibits hereto and any amendments hereto, contains the entire agreement between the parties, and all prior proposals, discussions and writings by and between the parties and related to the subject matter hereof are superseded hereby.
13. INVALIDITY: If any provision of this Agreement or any portion thereof is declared invalid or unenforceable, the remaining provisions shall nevertheless remain in full force and effect.
14. FORCE MAJEURE: Neither TWA nor City of Bethel shall have any liability to the other for a failure of performance resulting from any cause beyond its control.
15. EXHIBITS: The exhibits hereto are incorporated into and are an integral part of this Agreement. In the event of any inconsistency between the terms of this Agreement and the terms of any exhibit hereto, the terms outlined in the exhibits shall prevail.
16. AMENDMENTS: No amendment or modification to this Agreement shall be effective unless in writing and executed by the Parties. Amendments shall reference the provisions of this Agreement that are being modified. The terms and conditions set forth in any amendments shall supersede this Agreement, effective from the date of the amendment.
17. NON-WAIVER/DELAY: No failure or delay on the part of either party in exercising any right, power, or privilege shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power, or privilege. Unless expressly provided otherwise, the remedies set forth herein are cumulative and not exclusive of any rights or remedies that either party would otherwise have.
18. BINDING ON SUCCESSORS: City of Bethel and TWA each binds itself, its successors, assigns, and legal representatives to the other party hereto in respect to all covenants, contracts, representations, and obligations contained in this Agreement.

19. NOTICES. Any notice which under the terms of this Agreement must or may be given or made by either Party hereunder shall be in writing and shall be delivered personally, sent by express courier service, or sent by certified U.S. mail, postage paid and return receipt requested. Notices shall be deemed to have been received as of the earlier of the date of actual receipt or, in case of notices sent via U.S. mail, three (3) days after mailing. A signed receipt shall be obtained where a notice is delivered in person. Either Party may change its address for notices by proper notice thereof.

If to City of Bethel:
City of Bethel
Attn: City Manager
P.O. Box 1388
Bethel, AK 99559

With a Copy to:
City of Bethel
Attn: City Attorney
P.O. Box 1388
Bethel, AK 99559

If to TWA:
THE WILSON AGENCY, LLC
Attn: Jennifer W. Bundy-Cobb
3000 A Street, Suite 400
Anchorage, AK 99503

With a Copy to:
THE WILSON AGENCY, LLC
Attn: Lon G. Wilson
3000 A Street, Suite 400
Anchorage, AK 99503

20. RESOLUTION OF DISPUTES: This Agreement shall be construed in accordance with and governed by the laws of the State of Alaska. Any disputes regarding the execution or operation of this Agreement shall be resolved by confidential binding arbitration in accordance with the Commercial Dispute Resolution Procedures of the American Arbitration Association (AAA) or such other procedures as may be agreed upon. A neutral arbitrator agreed upon by all parties shall conduct all arbitration proceedings. The decision of the arbitrator shall be final. The costs of arbitration shall be borne equally by the parties. Prior to arbitration, the parties shall first attempt to resolve the dispute through confidential non-binding mediation in accordance with the Commercial Dispute Resolution Procedures of the AAA or such other procedures as may be agreed upon. If a party refuses to participate in Arbitration, or if necessary to enforce an award in Arbitration or any other term of this Agreement, legal action may be brought in the Superior Court in the Third-Fourth Judicial District, in Bethel, Anchorage, Alaska and the prevailing party shall be awarded its reasonable attorney's fees and costs in such action. *(Does the City lose its ability to go to Court and only option is this arbitration?)*

21. INTERPRETATION: Captions for sections and paragraphs shall not affect the interpretation of this Agreement. The parties have negotiated the terms of this Agreement with the advice of counsel, and no ambiguity in this Agreement shall be construed against the Party that drafted the Agreement. – *What does this mean? Who drafted this agreement?*

22. NO THIRD PARTY BENEFICIARIES. Except as otherwise provided herein, this Agreement shall not be construed to provide any third party with any remedy, claim, right of action, or other right.

23. INSURANCE. TWA shall maintain the following insurance coverage through the entire term of this Agreement:

- Errors and Omissions insurance coverage- with a minimum limit of \$1,000,000 per occurrence;
- Commercial General Liability – occurrence form, with coverage for: (a) Premises/Operations, (b) Products and Completed Operations; (c) Broad form property damage; (d) Personal and advertising injury; (e) Contractual liability. Minimum limit of \$1,000,000 per occurrence, \$2,000,000 aggregate;
- Workers Compensation- as required by Alaska Law;
- Crime/Employee Dishonesty- no less than \$500,000 per occurrence;
- Supplemental Umbrella/Excess Liability – limit of not less than \$1,000,000 per occurrence;
- Cyber Liability -limit of not less than \$2,000,000 per occurrence;

- Auto Liability- owned auto, non-owned auto liability and hired auto liability if applicable. Suggested \$1,000,000 combined single limit. TWA to provide copies of the above policies to the City annually.

24. NON-DISCRIMINATION. TWA shall not discriminate against any employee, contractor or City of Bethel staff because of race, color, religion, sex, sexual orientation, gender identification, marital status, ancestry, disability, national origin physical handicap, age, religion, religious opinions, political affiliation, genetic information, status as a disabled veteran or veteran of the Vietnam Era war.

City of Bethel
Name: Ann K Capela
Title: City Manager

THE WILSON AGENCY, LLC
Name: Jennifer W. Bundy-Cobb
Title: Vice President

Signed:

Signed:

Date:

| *Date*

Exhibit A Advisor Services

1. Strategic Services
 - a) Establish short and long-term goals and targets for benefit plans and their role at City of Bethel
 - b) Review workforce needs and trends to develop a benefits program that supports the overall business objectives
 - c) Conduct at **least 6 (six)** regular meetings to solicit key stakeholder feedback

2. Ongoing Evaluation of Financial Position of City of Bethel Self-Funded Plan; Quarterly Review Meetings to Include
 - a) Evaluate funding levels and expenses, including incurred claims, administrative and reserve expenses
 - b) Model optional benefit designs and provide corresponding funding levels
 - c) Monitor, both prospectively and retrospectively, financial impacts to proposed and approved benefit modifications
 - d) Evaluate key **plan** utilization data for major medical and prescription claims
 - e) As needed summarize data and provide recommendations based on predictive modeling tools
 - f) As necessary provide input and recommendations regarding benefit design

3. Lifestyle Management and Value Plan Design
 - a) Identify opportunities for plan design change through data analytics
 - b) Discuss methods for promoting employee engagement
 - c) Provide recommendations for wellness programs including services already incorporated into insurance products
 - d) Assist with finding wellness program managers
 - e) Assist in providing reporting for wellness programs
 - f) Assist with the coordination of wellness fairs
 - g) Assist with biometric screenings

4. Assistance with Plan Administration
 - a) Provide training support to Human Resources and Benefits staff and mentorship, as requested
 - b) Provide access to ERISA counsel and, if necessary, assist in the coordination of legal teams
 - c) Assist in handling and researching issues generated by claim appeals
 - ~~d) Assist with training of Appeals Committee members~~
 - ~~e) Participate in Appeals Committee meetings~~
 - f) Develop and make recommendations for funding levels, including the development of rates for active and COBRA participants, as requested
 - g) Participate in interviews for candidates to fill Benefits and Human Resources positions, as needed

Exhibit A Advisor Services

- h) Maintain records of all material documents and correspondence pertaining to services provided to the City of Bethel by TWA, within the requirements of state and federal law
5. Legislative and Regulatory Compliance
- a) Assist in developing and maintaining compliant policies and procedures with respect to HIPAA, COBRA and other statutes and regulations
 - b) Provide support with the filing requirements associated with ERISA, the IRS and DOL
 - c) ~~Assistance in completing Health and Welfare Form 5500 Reports~~
 - d) Provide access to an online library of compliance webinars and publications
 - e) Provide guidance for HIPAA training and compliance
6. Insurance and Managed Care Contract Review
- a) Review and evaluate contracts and pricing for suitability
 - b) Provide oversight for new contracts
 - c) Make recommendations for funding (employer vs. employee paid)
 - d) Market the managed care contracts as necessary
 - e) Seek out new and alternative cost-containment programs
 - f) Manage rate negotiations with carriers
7. Benchmarking and Analytical Services
- a) Participate in UBA Health Plan Survey
 - b) Provide benchmarking for the current plan design, premiums and contributions
8. Third Party Administration (TPA)
- a) Facilitate strategic planning session with the TPA
 - b) Monitor, evaluate and make recommendations concerning TPA performance
 - c) Facilitate audits as requested
 - d) Market plan to potential TPAs, as necessary
 - e) Review and negotiate fees, including the following:
 - i. General administrative services
 - ii. Care facilitation
 - iii. PPO re-pricing
 - iv. COBRA/HIPAA administration
 - v. HAS/HRA administration

Exhibit A

Advisor Services

9. Project Oversight and Management for Third Party Bids as Requested

- a) Draft and submit Request for Proposal to approved vendor list
- b) Monitor the bidding process
 - i. Facilitate bidders' conference
 - u. Handle all bidder questions
- c) Collect and review all proposals
- d) Submit list of recommended finalists
- e) Facilitate and attend on-site meetings or visitations of finalists
- f) Assist with final decision
- g) Handle communication with all winning and non-winning bidders

10. Third-Party Vendor Implementation (If **When Transition Occurs) and Prescription Benefit Management (PBM)**

- a) Facilitate strategic planning session with new vendor
- b) Monitor implementation timeline
- c) Assist in member communication issues
- d) Monitor and track the transfer of information and data from incumbent to the new vendor
- e) Facilitate periodic conference calls prior to and following the effective date
- f) Review and provide comments on the new vendor's contract
- g) Facilitate the transfer of corollary documentation to the new vendor

11. PPO Contracting

- a) Assist in the evaluation, coordination, negotiation, and execution of PPO Agreements
- b) Assist other parties (TPA) in the promotion of PPO networks
- c) Assess the PPO's current financial outcomes and impact of contract changes
- d) Oversee comparison of PPO networks

12. Actuarial Services

- a) Set actuarial levels of incurred claims; determine completion ratio and factors
- b) Develop appropriate trend estimates for renewal forecasts
- c) Periodically determine the IDNR levels, in accordance to IRS and DOL guidelines
- d) Provide recommendation of best practices for IDNR management

Exhibit A

Advisor Services

13. Employee Communications and Customer Service

- a) Provide access to templates for employee communications and, as requested, assist in the distribution of annual open enrollment guides and monthly newsletters
- b) Participate and assist in employee meetings and/or webinars
- c) Assist with development of employee surveys as requested
- d) Access to The Wilson Agency Client service team for resolution of challenging claim problems

14. Additional Resources

- a) Access to an online library of compliance webinars and publications
- b) HR. webinars
- c) Wellness webinars
- d) Access to the following tools and resources:
 - 1. The Wilson Agency web site
 - n. Full service HR. suite of resources (Think HR)
- e) Weekly Wellness newsletter

15. Management Meetings

- a) Meetings with the Executive team, as needed
- b) Meetings with the Steering Committees, as needed
- c) Meetings with the HR. team, as needed
- d) Periodic meetings and presentations to other committees, as requested

~~September 21, 2015~~
October 31, 2015

To Whom It May Concern:

We have appointed The Wilson Agency, LLC as our exclusive insurance agent/broker for the insurance policies referenced below. The appointment of The Wilson Agency, LLC rescinds all previous appointments and the authority contained herein shall remain in full force until canceled in writing.

The Wilson Agency, LLC is hereby authorized to negotiate directly with any interested company with respect to the coverage provided by the policies referenced below. We understand, however, that they have no responsibility for any deficiencies in the insurance program to which this letter applies until they have had a reasonable opportunity to make a review and to provide us with their recommendations.

This letter also constitutes your authority to furnish any Wilson Agency, LLC representative with all information they may request as it pertains to our insurance contract, rates, rating schedules, claims experience, reserves, retentions and all other financial data they may wish to obtain for their study of our present and future requirements in connection with the insurance program to which this letter applies. We request that you do not communicate such information to anyone else.

Sincerely,

Signature _____

Printed Name _____

Title _____

Policy _____ Company _____

BUSINESS ASSOCIATE AGREEMENT

THIS AGREEMENT is made as by and between **CITY OF BETHEL** ("Covered Entity") and The Wilson Agency, LLC ("Business Associate") pursuant to the implementation specifications of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the Health Information Technology for Economic and Clinical Health Act, Pub. L. 111-5 ("HITECH").

WHEREAS, Covered Entity is a group health plan as defined in the Privacy Rule adopted pursuant to HIPAA; and

WHEREAS, Business Associate is an insurance broker, agent or consulting that provides services and advice to Covered Entity, as well as plan sponsors and group health plans, on matters related to employee benefits; and

WHEREAS, Business Associate has been retained by the Covered Entity to perform a function or activity on behalf of the Covered Entity that requires that the Business Associate have access to Protected Health Information ("PHI"); and

WHEREAS, the parties wish to set forth their understandings with regard to the use and disclosure of PHI by the Business Associate in performance of its obligations.

NOW, THEREFORE, in consideration of the mutual promises set forth below the parties hereby agree as follows:

1. Definitions.

- (a) *Breach*. "Breach" shall have the same meaning as the term "breach" in 45 CFR § 164.402.
- (b) *Breach Notification Rule*. "Breach Notification Rule" shall mean the Standards and Implementation Specifications for Notification of Breaches of Unsecured Protected Health Information in 45 CFR Parts 160 and 164, subparts A and D.
- (c) *Individual*. "Individual" shall have the same meaning as the term "individual" in 45 CFR § 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).
- (d) *Privacy Rule*. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.
- (e) *Protected Health Information*. "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR § 164.501, but shall be limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- (f) *Required By Law*. "Required By Law" shall have the same meaning as the term "required by law" in 45 CFR § 164.501.
- (g) *Secretary*. "Secretary" shall mean the Secretary of the Department of Health and Human Services or his/her designee.

- (h) *Security Incident*. "Security Incident" shall have the same meaning as the term "security incident" in 45 CFR § 164.304.
- (i) "*Security Rule*" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Parts 160, 162 and 164.

2. Obligations and Activities of Business Associate

- (a) Business Associate agrees to not use or familiarly disclose Protected Health Information other than as permitted or required by Law and prior approval of the Covered Entity.
- (b) Business Associate agrees to use appropriate safeguards, including without limitation administrative, physical, and technical safeguards, to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement and to reasonably and appropriately protect the confidentiality, integrity, and availability of any electronic Protected Health Information that it may receive, maintain, or transmit on behalf of the Covered Entity.
- (c) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of use or disclosure of Protected Health Information by Business Associate or one of its agents or subcontractors in violation of the requirements of this Agreement.
- (d) Business Associate agrees to comply with the Security Rule in a manner consistent with HITECH and implementing regulations that may be adopted by relevant federal agencies, to keep all electronic Protected Health Information in a secure manner.
- (e) Business Associate agrees to report to Covered Entity any use or disclosure of Protected Health Information not provided for by this Agreement of which it becomes aware, including a Security Incident or Breach of unsecured Protected Health Information both in accordance with the timeliness and notification standards set forth in 45 CFR § 164.410.
- (f) Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity, agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.
- (g) Business Associate agrees to provide access, at the request of Covered Entity, and in the time and manner designated by Covered Entity, to Protected Health Information in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 CFR § 164.524, subject also to the terms of HITECH.
- (h) Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR § 164.526 at the request of Covered Entity or an Individual, and in a reasonable time and manner designated by Covered Entity.
- (i) Business Associate agrees to make internal practices, books and records relating to the use and disclosure of Protected Health Information received from, or created or received

by Business Associate on behalf of, Covered Entity available to the Covered Entity, or at the request of the Covered Entity to the Secretary, in a reasonable time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy & Security Rules.

- (j) Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528, subject also to the terms of I-UTECH.
- (k) Business Associate agrees to provide to Covered Entity or an Individual, in a reasonable time and manner designated by Covered Entity, information collected in accordance with Section 2(g) of this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528.

3. Permitted Uses and Disclosures by Business Associate.

Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of Covered Entity provided that such use or disclosure would not violate the Privacy & Security Rule or

1- HITECH if done by Covered Entity). Business Associate is permitted to use and disclose PII to provide the following services:

- o Evaluation of the financial position of a plan
- o Providing insurance and service
- o Contract review
- o Assisting with plan administration matters
- o Interaction with Trustees and/or plan sponsors
- o PPO contract negotiation;
- o Actuarial work
- o Any other services reasonable and necessary to serve the covered entities needs **subject to prior approval of the Covered Entity**

- (a) Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- (b) Except as otherwise limited in this Agreement, Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that disclosures are Required by Law, or Business Associate obtains **reasonable** assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

4. Obligations of the Covered Entity.

- (a) Covered Entity shall provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with 45 CFR § 164.520, as well as any changes to such notice.
- (b) Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose Protected Health Information, if such changes affect Business Associate's permitted or required uses and disclosures.
- (c) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR § 164.522, if such changes affect Business Associate's permitted or required uses and disclosures.

5. Permissible Requests by the Covered Entity.

Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy & Security Rule or HITECH if clone by Covered Entity.

6. Term and Termination.

- (a) Term. The Term of this Agreement shall be effective as of the Effective Date (as detailed below), and shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section.
- (b) Termination for Cause. If Covered Entity or Business Associate learns of a material breach by the other party, it shall:
 - 1. provide the breaching party with a reasonable opportunity to cure the breach within time period specified by the non-breaching party, or
 - 2. terminate this Agreement immediately upon written notice to the breaching party that it has breached a material term of this Agreement and there is no possible cure. If neither termination nor cure is feasible, the non-breaching party shall report the violation to the Secretary.
- (c) Effect of Termination.
 - 1. Except as provided in paragraph (2) of this section, upon termination of this Agreement for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.

2. In the event that Business Associate reasonably determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon Business Associate's reasonable determination that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

(d) **EFFECTIVE Date.** The effective date of this Agreement (the "Effective Date") shall be _____

7. **Miscellaneous.**

(a) **Regulatory References.** A reference in this Agreement to a section in the Privacy & Security Rule means the section as in effect or as amended, and for which compliance is required.

(b) **Indemnification.** Business Associate agrees to indemnify, defend and hold harmless Covered Entity, its shareholders, directors, officers, agents, employees, successors and assigns from and against any and all liability, claims, loss, injury, cause of action and expense (including reasonable defense costs and legal fees) of any nature whatsoever arising or resulting from: (i) the failure of Business Associate, its officers, agents, or employees, to perform any of the duties or responsibilities specified in this Agreement; and/or (ii) the gross negligence and/or intentional misconduct of Business Associate, its officers, agents or employees.

(c) Covered Entity agrees to indemnify, defend and hold harmless Business Associate, its shareholders, directors, officers, agents, employees, successors and assigns from and against any and all liability, claim, loss, injury, cause of action and expense (including reasonable defense costs and legal fees) of any nature whatsoever arising or resulting from: (i) the failure of Covered Entity, its officers, agents, or employees to perform any of the duties or responsibilities specified in this Agreement; (ii) actions taken by Business Associate at the direction of the Covered Entity or resulting from the conduct of the Covered Entity; and/or (iii) the gross negligence and or intentional misconduct of Covered Entity, its officers, agents or employees.

(d) **Remedies.** The parties acknowledge that breach of this Agreement may cause irreparable harm for which there is no adequate remedy at law. In the event of a breach or a party has actual notice of an intended breach by the other party, the non-breaching party shall be entitled to seek specific performance and/or an injunction restraining the breaching party from violating or further violating this Agreement. Unless expressly provided otherwise the remedies set forth herein are not exclusive of any rights or remedies that either party would otherwise have in law or equity.

(e) **Amendment.** The Parties agree to take such action as is necessary to amend the Agreement from time to time as is necessary for Covered Entity or Business Associate to comply with the requirements of the Privacy and Security Rules, HIPAA and HITECH: provided, however, that no amendment shall be deemed valid unless signed by both parties.

- (f) Survival. The respective rights and obligations of the parties under Sections 6(c), 7(b), 7(c) and 7(j) of this Agreement shall survive the termination of this Agreement.
- (g) Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits the parties to comply with the Privacy and Security Rules and HITECH.
- (h) Governing Law; Conflict. This Agreement shall be enforced and construed in accordance with the laws of the State of Alaska. Jurisdiction of any litigation with respect to this Agreement shall be in Alaska, with venue in a court of competent jurisdiction located in Bethel ~~Anchorage~~. In the event of a conflict between the terms of this Agreement and the terms of any Underlying Agreements, the terms of this Agreement shall control.
- (h) Notices. Any notice given under this Agreement must be in writing and delivered via first class mail, via reputable overnight courier service, or in person to the parties' respective addresses as first written above or to such other address as the parties may from time to time designate in writing.
- (i) Assigns. Neither this Agreement nor any of the rights, benefits, duties, or obligations provided herein may be assigned by any party to this Agreement without the prior written consent of the other party.
- (i) Third Party Beneficiaries. Nothing in this Agreement shall be deemed to create any rights or remedies in any third party.
- (k) Waivers. The failure of either party to enforce any provision of this Agreement will not constitute a waiver of such party's rights to subsequently enforce the provision.
- (l) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original for all purposes but all of which taken together shall constitute only one instrument. Signed facsimile and electronic copies of this Agreement shall legally bind the parties to the same extent as original documents
- (m) Severability. If any provision of this Agreement will be held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable
- (n) Entire Agreement. This Agreement is the complete agreement between the parties concerning the subject matter of this Agreement and replaces any prior oral or written communications between the parties. There are no conditions, understandings, agreements, representations or warranties (express or implied) which are not specified herein.

The parties hereby acknowledge that they have read this agreement, understand it, and agree to be bound by its terms.

IN WITNESS WHEREOF, the undersigned have executed this Agreement, this _ day of _____ 20____

Company Name City of Bethel ("Covered Entity"):

By: _____ (name)

_____ (title)

The Wilson Agency, LLC
("Business Associate")

By: _____ (name)

_____ (title)

Introduced by: Vice-Mayor Albertson
Date: April 28, 2015
Action: Passed
Vote: 4-3

CITY OF BETHEL, ALASKA

Resolution # 15-08

PROTESTING THE ISSUANCE OF A PACKAGE STORE LICENSE TO BETHEL SPIRITS, LLC. DOING BUSINESS AS BETHEL SPIRITS-LICENSE ID #5384, LOCATED AT 905 CHIEF EDDIE HOFFMAN HIGHWAY, SUITE B, BETHEL, ALASKA

Whereas, the results of the Special Election held January 19, 2010 indicate that 287 voters favor and 498 oppose the issuance of package store liquor licenses in the community;

Whereas, the Kipusvik building set out in the application for a package store license is located across the street from the State's Juvenile Justice Facility which offers educational courses from Lower Kuskokwim School District's approved curriculum;

Whereas, Alaska Statute 04.11.410 prohibits the operation of a package store within 200 feet of a school building as measured by the shortest pedestrian route from the outer boundaries of the school ground;

Whereas, Bethel Municipal Code 5.08.011 prohibits a package store within 300 feet of school buildings, measured by the most direct route of travel on the ground, from the main parking lot entrance of the establishment in a straight line, regardless of obstructions to the nearest public sidewalk, walkway, street, road or highway by the nearest route, to the nearest portion of the school grounds;

Whereas, Alaska Statute 04.11.150 (e) prohibits the business premises occupied by a package store to be connected by a door, opening, or other means of passage intended for the access of the general public to an adjacent retail business not also licensed under AS Title 4, unless approved by the board;

Whereas, Kipusvik contains a movie theater, which shares the same main entrance as the proposed liquor store;

Whereas, the Kipusvik building has an open floor plan with a shared entrance that offers patrons tables and chairs similar to that of a cafeteria and presents an opportunity for loitering in a public space in the vicinity of proposed alcohol sales;

Whereas, at the March 24, 2015 Bethel City Council meeting, 43 people provided public testimony on potential sales of alcoholic beverages in the community, and 37 people spoke in opposition;

Introduced by: Vice-Mayor Albertson
Date: April 28, 2015
Action: Passed
Vote: 4-3

Whereas, in 2014 the Bethel Fire Department Emergency Medical Services Unit reported a majority of the calls for service were for individuals under the influence of alcohol;

Whereas, Police Department figures for 2014 show the number of calls for "Intoxicated Pedestrians" to be 3,198 out of a total of 9,844 calls for the year, representing 32.49% of the total calls received by the department;

Whereas, the Police Dispatch Center reported a majority of their calls for service were alcohol related;

Whereas, the City protest stands based on the opposition of the people of Bethel, regardless of the presence or lack thereof of Bethel municipal Code or State Statute violations;

NOW, THEREFORE, BE IT RESOLVED the Bethel City Council does hereby protest the application for the above identified package store license and requires the City Clerk to send this resolution to the Alcohol Beverage Control Board by June 5, 2015.

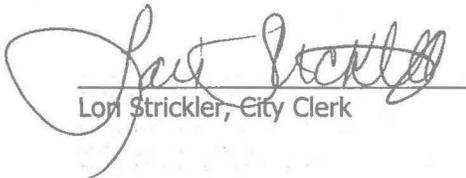
ENACTED THIS 28th DAY OF APRIL 2015, BY A VOTE OF 4 IN FAVOR AND 3 OPPOSED,



Richard Robb, Mayor

4/28/2015

ATTEST:



Lori Strickler, City Clerk

Introduced by: Council Member Herman
Date: September 22, 2015
Action: Passed
Vote: 5-0

CITY OF BETHEL, ALASKA

Resolution # 15-15

A RESOLUTION BY THE CITY OF BETHEL PROTESTING THE ISSUANCE OF A STATE OF ALASKA ALCOHOLIC PACKAGE STORE LICENSE FOR AC QUICKSTOP; LOCATED AT 131 AKAKEEK STREET; OWNED BY NORTH WEST COMPANY INC.; LICENSE ID# - 5418

- WHEREAS,** in 2010, the City held an advisory vote and asked the following question to the citizens of Bethel: "Should the City of Bethel support a liquor license application for a liquor store within the City of Bethel?;"
- WHEREAS,** in response to the question, 498 citizens (63%) voted no, they did not want the City Council to support the issuance of a liquor license application for a liquor store within the City and 287 (37%) voted in favor;
- WHEREAS,** public policy dictates the Bethel City Council represent the will, desires and opinions of the voters and citizens of Bethel, Alaska Administrative Code 3 AAC 304.145 states, "the board will not substitute its judgment for that of the local governing body on matters of public policy that have reasonable factual support;"
- WHEREAS,** at the March 24, 2015 Bethel City Council meeting, 43 people provided public testimony on potential sales of alcoholic beverages in the community, and with 37 of those individuals, or 73% speaking in opposition;
- WHEREAS,** at the April 6, 2015 town hall meeting, 50 people provided public testimony on potential sales of alcoholic beverages in the community and 40 of those people spoke in opposition;
- WHEREAS,** in the Anchorage Police Department 2013, Annual Statistical Report (the 2014 report was not available on the Municipal website), 4.58% of the calls for service were for Drunken Problems/Drunken Transports;
- Whereas,** in contrast to Anchorage's statistics, the Bethel Police Department reports show that in 2014, thirty-three (33%) percent of the calls for service were in response to Intoxicated Pedestrians;
- WHEREAS,** State Trooper's calls for service in the community of Bethel for the years 2013 and 2014 totaled 242 with 29.3% being alcohol related;

Introduced by: Council Member Herman
Date: September 22, 2015
Action: Passed
Vote: 5-0

- WHEREAS,** the Yukon Kuskokwim Juvenile Detention Facility's statistics show over 19% of their referrals involved alcohol;
- WHEREAS,** over a three year period, 2012 through 2014, the State of Alaska Court System reports an average of 127 Minor Alcohol Related cases per year;
- WHEREAS,** the Yukon Kuskokwim Health Corporation (YKHC) Sobering Center Program provides sleep-off and other services to intoxicated individuals through close collaboration with the Bethel Police Department, Yukon Kuskokwim Correctional Center, YKHC Emergency Department and YKHC Behavioral Health, YKHC reports;
- WHEREAS,** the sobering center intake numbers for 2014 totaled 1n686 and the YKHC Sobering Center reports that half of the people served were residents of Bethel, indicating the impacts of alcohol in Bethel are not limited to citizens of this community;
- WHEREAS,** a review of the statistics kept by the Alaska Court System revealed that Driving While Intoxicated (DUI's) has remained steady both before and after going wet, however, bootlegging appears to have increased significantly;
- WHEREAS,** determining just how much bootlegging goes on in Bethel is a figure that cannot be ascertained to any degree of certainty, all that can be stated with any certainty is that bootlegging does occur both in Bethel and more greatly impacts the villages surrounding Bethel;
- WHEREAS,** the Bethel WAANT unit indicates that since going wet, rates of bootlegging in Bethel appear to have remained steady while bootlegging to the surrounding communities appears to have increased, this is supported by the statistics obtained from the Bethel courthouse;
- WHEREAS,** in 2009, the year Bethel went wet, there were 53 importation (bootlegging) convictions, these offenses are typically attempts to take alcohol from Bethel to the surrounding dry communities, the 2009 figure was a stark increase from the damp years of 2007 (1 conviction) and 2008 (12 convictions), following 2009, the figures remained high: 91 in 2010, 93 in 2011, 52 in 2012 and 67 in 2013, these figures would appear to support the City Council's concerns that the more readily available alcohol is in Bethel, the more of it that will flow to the surrounding villages to feed its bootlegging/importation businesses;

Introduced by: Council Member Herman
Date: September 22, 2015
Action: Passed
Vote: 5-0

WHEREAS, while the AC Quickstop is not located within three (300) feet of a school, it is located on a heavily traveled access road utilized by school children;

WHEREAS, AC Quickstop's proximity to two elementary schools and the high school, and located on a main thoroughfare will mean that large numbers of vulnerable children will have to travel in front of the package store daily;

WHEREAS, the legislative intent behind AS 04.11.410 is to protect children attending school from direct exposure to some of the demoralizing circumstances which, by the authority of common knowledge, are incident to the traffic in intoxicating liquor. *Application of Wakefield*, 10 Alaska 599 (D. Alaska 1975);

WHEREAS, the Lower Kuskokwim School District (LKSD) tends to and addresses the impact of alcohol on its students daily;

WHEREAS, alcohol abuse is prevalent for some of the children's families and has caused the school to offer showers, laundry facilities and extra meals in order to help provide some of the basic needs of its students, needs are not being met at home, often times due to significant alcohol abuse;

WHEREAS, the more easily accessible alcohol is in Bethel the more influx of people from surrounding dry communities traveling to Bethel to not casually drink but binge drink causing more strain on the Police Department and interrupting the peaceful enjoyment of community members;

WHEREAS, AC Quickstop is applying for a package store license, to be located in the Housing Subdivision, which is primarily made up of Alaska Housing Finance Corporation, State subsidized housing;

WHEREAS, the Housing Subdivision is approximately one square mile;

WHEREAS, between May 11, and July 31, 2015, 41 of the 141 (30%) calls for service to the Housing Subdivision were alcohol related;

WHEREAS, a study by Rutgers, Center of Alcohol Studies, titled, *Varying Impacts of Alcohol Outlet Densities on Violent Assaults: Explaining Differences Across Neighborhoods*, states,

“Assaults were related to outlet densities in local and surrounding areas, the mix of outlet types, and neighborhood characteristics. The addition of one outlet per square mile was related to a small 0.23% increase in assaults. A 10% greater proportion of bars in a ZIP code was related to 7.5% greater assaults, whereas a 10% greater proportion of bars in surrounding areas was related to 6.2% greater

Introduced by: Council Member Herman
Date: September 22, 2015
Action: Passed
Vote: 5-0

assaults. The impacts of bars were much greater in areas with low incomes and dense populations. Conclusion - The effect of bar density on assault injuries was well supported and positive, and the magnitude of the effect varied by neighborhood characteristics. Posterior distributions from these models enabled the identification of locations most vulnerable to problems related to alcohol outlets;”

WHEREAS, the conclusion of this study as well as the statistical information from the Bethel Police Department, specific to the neighborhood, provide reasonable factual support that the impacts to the surrounding neighborhood if alcohol sales was available would be significant;

NOW, THEREFORE, BE IT RESOLVED the Bethel City Council opposes the issuance of a package store license for the AC Quickstop.

ENACTED THIS 22 DAY OF SEPTEMBER, 2015 BY A VOTE OF 5 IN FAVOR AND 0 OPPOSED.



Richard Robb, Mayor

ATTEST:


Lori Strickler, City Clerk