

Introduced by: Council Member Springer  
Date: July 28, 2015  
Referred to Public Safety and  
Transportation Commission for a 90  
day review period.  
Public Hearing:  
Action:  
Vote:

## *CITY OF BETHEL, ALASKA*

### **Ordinance #15-19**

#### **AN ORDINANCE AMENDING BETHEL MUNICIPAL CODE CHAPTER 5.40.070, CHAUFFEURS, ALCOHOLIC BEVERAGES AND CONTROLLED SUBSTANCES AND REPEALING 5.40.080, CHAUFFEURS, CARRYING ALCOHOLIC BEVERAGES**

**NOW, THEREFORE BE IT ORDAINED**, that the City of Bethel authorizes a change to the Bethel Municipal Code as described herein.

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

**SECTION 2. Amendment.** The Bethel Municipal Code is to be amended as follows (new language is underlined and old language is stricken).

#### **Chapter 5.40 CHAUFFEURS**

##### Sections:

- 5.40.010 Chauffeur's license required.
- 5.40.020 Chauffeur application for license.
- 5.40.030 Issuance of chauffeur's license.
- 5.40.040 Posting of chauffeur's license.
- 5.40.050 Maximum number of hours per day.
- 5.40.060 Duty to serve public.
- 5.40.070 Alcoholic beverages and controlled substances.
- ~~5.40.080 Carrying alcoholic beverages.~~
- 5.40.090 Charter of taxicab.
- 5.40.100 Fares and receipts.
- 5.40.110 Two-way radio prohibited.
- 5.40.120 Handheld device use prohibited.
- 5.40.130 Requirement of check-in and check-out.

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**5.40.010 Chauffeur's license required.**

No person may operate a river taxi, taxicab, limousine or bus within the city without having in their possession a valid chauffeur's license.

**5.40.020 Chauffeur application for license.**

- A. An application for a chauffeur's license shall be made to the transportation inspector.
- B. An application shall be submitted on a form approved by the transportation inspector and shall be accompanied by:
  - 1. The fee specified in BMC 5.20.160;
  - 2. Photographs to be taken by the transportation inspector;
  - 3. A complete set of fingerprints made by the Bethel police department or the transportation inspector on an FBI-approved form;
  - 4. A certificate from a physician licensed in the state to perform such testing, verifying the applicant's physical ability to drive, and proof of a negative drug test from a city-approved drug and alcohol testing facility;
  - 5. Proof that the applicant currently holds a valid state driver's license which entitles him or her to operate a vehicle by which persons are transported for compensation and has held a valid driver's license in Alaska or another state in the United States for at least one (1) year before the date of the application;
  - 6. Proof that the applicant is at least eighteen (18) years old; and
  - 7. Proof that the applicant has compiled with subsections C and D of this section.
- C. Except as provided in subsection D of this section, an application shall not be complete until the applicant has passed an examination administered by the transportation inspector or his or her designee that tests the applicant's knowledge of safe driving, safe vehicle maintenance, knowledge of the city streets and significant locations, driver personal safety, drug and alcohol testing requirements, and any other subjects the commission finds to be in the public interest of ensuring safe and responsible public transportation. The examination

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shall consist of two (2) portions. One (1) portion shall be written test and the other portion shall be driving test. An applicant shall first (1st) take the written portion of the examination. If the applicant fails the written portion of the examination, he or she may not take the driving portion of the test. If the applicant fails either portion of the examination in any combination three (3) times in any one (1) calendar year, the applicant may not reapply for a chauffeur's license for one (1) year from the date of the third (3rd) failure.

- D. Each licensed chauffeur shall provide the transportation inspector with a current driving record every six (6) months from the date of issue or renewal. Any licensed chauffeur accumulating six (6) or more points against their driver's license shall be required to successfully pass both the written and driving examination administered by the transportation inspector as outlined in subsection C of this section.
- E. Applicants for a chauffeur's license must show proof of a successful passage of the written and driving portions of the examination required in subsections C and D of the section and proof of payment of any fees required in Chapters 5.20 through 5.50 BMC.
- F. Any person who has been denied a license pursuant to this chapter may not apply again for such a license for a period of one (1) year.

#### **5.40.030 Issuance of chauffeur's license.**

The transportation inspector shall issue a chauffeur's license to an applicant only if:

- A. The applicant has submitted a complete application as prescribed in BMC 5.40.020, and is certified as required in BMC 5.20.150;
- B. The applicant has not had a conviction entered by a court of competent jurisdiction within twelve (12) months of the date of his or her application for:
  - 1. A moving traffic violation which subjected the applicant's driver's license to suspension or revocation pursuant to AS 28.15.221 through 28.15.261, or a similar law of another jurisdiction;
  - 2. Reckless driving;

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3. Driving while license suspended or revoked;
  4. Driving while under the influence of intoxicating liquor; depressant, hallucinogenic, stimulant or narcotic drugs, or any controlled substance as defined in AS 28.35.030 or any similar law of another jurisdiction;
- C. The applicant has not had his or her driver's license suspended or revoked within one (1) year prior to the application date;
- D. The applicant has not had a felony or misdemeanor conviction entered by a court of competent jurisdiction within five (5) years of the date of application for:
1. Assignment, prostitution, solicitation for the purpose of prostitution, offering to secure another for the purpose of prostitution, maintaining a vehicle for the purpose of prostitution or accepting money from a prostitute for any of the aforementioned purposes;
  2. Sale, transportation, possession or use of any controlled substance as defined in AS 11.71 or any similar law of another jurisdiction; or a violation of AS 04 or a similar law of another jurisdiction, or engaging in an act prohibited under AS 04.11, 04.16 or 04.17;
  3. Any felony or misdemeanor which includes as an element the use or threat of force upon a person;
  4. Burglary, larceny, fraud, theft or embezzlement; or
  5. Any sexual abuse or sexual exploitation offense; and
- E. Each representation made in the application is correct. Any false or misleading statement or misrepresentation as to a material matter in an application shall be grounds for denial of the application or revocation of the license.

**5.40.040 Posting of chauffeur's license.**

The chauffeur's license for the operator of a taxicab, river taxi, limousine or bus shall be posted in the interior of the taxicab, river taxi, limousine or bus in the manner designated by the transportation inspector. No person may operate a taxicab, river taxi, limousine or bus for hire unless his chauffeur's license is so posted.

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**5.40.050 Maximum number of hours per day.**

No chauffeur may operate a taxicab, river taxi, limousine or bus in excess of twelve (12) consecutive hours. No chauffeur may engage in total gainful employment, whether chauffeuring or otherwise, for more than sixteen (16) hours in any twenty-four- (24-) hour period if the chauffeur has actually performed any chauffeuring in that twenty-four (24) hour period.

**5.40.060 Duty to serve public.**

- A. Chauffeurs of limousines shall be exempt from subsections A and B of this section. A chauffeur subject to this chapter shall not refuse to transport any passenger unless:
1. The chauffeur has already been dispatched to another call;
  2. The passenger is acting in a disorderly or threatening manner, or otherwise causes the chauffeur to reasonably believe that his or her health or safety, or that of others, may be endangered;
  3. The passenger, upon request, does not show an ability to pay the estimated fare or any applicable flat or group rate; or
  4. The passenger refuses to refrain from smoking.
- B. The chauffeur shall immediately notify the dispatcher of any incident of service refusal.
- C. A chauffeur shall inspect his or her regulated vehicle at the beginning and during his or her shift ensuring the vehicle is in a safe operating condition and clean inside and outside. Any mechanical or safety deficiencies noted shall be immediately reported to the vehicle owner. A record of this notification and deficiency will be noted on the applicable trip sheet. The vehicle owner shall take action to immediately correct safety deficiencies. Non-safety deficiencies shall be corrected within seventy-two (72) hours of notification. Failure of the chauffeur to report a safety or mechanical deficiency may result in a citation.

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D. It is unlawful for any chauffeur or passenger in a regulated vehicle to smoke any cigar, pipe, or cigarette or to burn tobacco or any other material in such vehicles at any time, regardless of whether or not passengers are riding in the vehicle.

**5.40.070 Alcoholic beverages and controlled substances.**

A. No chauffeur may drink alcoholic beverages or be under the influence of a depressant, hallucinogenic, stimulant or narcotic drug, or any controlled substance as defined by AS 28.35.030, while on duty or for eight (8) hours prior to operating a regulated vehicle.

B. No chauffeur may operate a regulated vehicle when there is an open container of alcoholic beverage in the passenger compartment of the vehicle, except as provided in this section.

1. A chauffeur may transport an open container of alcoholic beverage when the container is:

- a) In the trunk of the regulated vehicle;
- b) Behind the last upright seat in a trunkless regulated vehicle, if the open container is enclosed within another container;
- c) Behind a solid partition that separates the chauffeur from the area normally occupied by passengers.

2. If alcohol is transported in a regulated vehicle the transport shall be for a passenger riding with the alcoholic beverages and must accompany a receipt.

For purposes of this subsection:

- a) "Open" means that the seal around the lid, cap or cork of the container has been broken, or that the lid, cap or cork has been removed, but does not include, when repackaged or resealed in accordance with state law: (i) beer repackaged by a licensee under 3 AAC 304.365; or (ii) a resealed or recorked wine bottle.
- b) "Passenger compartment" means the area normally occupied by the chauffeur and passengers and includes a utility or glove compartment accessible to the chauffeur or a passenger while the vehicle is being operated.

C. No chauffeur may purchase, or solicit the purchase of an alcoholic beverage for another person in connection with performance of duties as a chauffeur.

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D. Any Chauffeur convicted of a violation of BMC 5.40.070 shall have their chauffeur license and/or vehicle permit revoked permanently.

E. Any dispatch company having four or more chauffeurs convicted of a violation of BMC 5.40.070 shall have their dispatch permit revoked permanently.

**~~5.40.080 Carrying alcoholic beverages.~~**

- ~~A. No chauffeur may possess or knowingly allow another person to possess a container of alcoholic beverages in a taxicab except that a passenger may transport alcoholic beverages in the trunk or cargo area of a regulated vehicle.~~
- ~~B. No passenger may possess any container of alcoholic beverages inside the passenger compartment of a regulated vehicle.~~

***\*\*Renumbering of the following subsections will be taken care of by the City Clerk's Office.***

**5.40.090 Charter of taxicab.**

If a passenger requests direct service to his or her destination without picking up or dropping off other passengers, the chauffeur shall honor the passenger's request, and may charge the passenger no more than the applicable charter rate established by the commission for the trip.

**5.40.100 Fares and receipts.**

- A. No chauffeur may require payment of rates greater than those established by the commission pursuant to BMC 5.20.050.
- B. On request of any passenger paying a fare, a chauffeur shall provide a receipt indicating the fare received, the date, the permit number, the dispatch company, and the chauffeur's legibly printed name.

**5.40.110 Two-way radio prohibited.**

No chauffeur may possess in a taxicab or allow another to operate a scanner capable of monitoring a frequency used by a dispatch service other than that used by the taxicab's dispatch service.

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**5.40.120 Handheld device use prohibited.**

- A. A chauffeur may not operate a regulated vehicle with a passenger for hire while using a handheld device, except licensed two- (2-) way radio for dispatch purposes, unless the chauffeur is using his or her handheld device to report illegal activity, summon medical or other emergency help, prevent injury to a person or property, or when parked.
  
- B. A chauffeur operating a permitted vehicle with a passenger for hire, while holding a handheld device, is guilty of violating this section, and is subject to the penalties under BMC 5.20.120.

**5.40.130 Requirement of check-in and check-out.**

Each chauffeur of a taxicab must check in with the dispatch service engaged by the permittee when the chauffeur begins a work shift and check out when the chauffeur departs a work shift.

**SECTION 4. Effective Date.** This ordinance shall become effective upon passage by the City Council.

**ENACTED THIS \_\_\_ DAY OF \_\_\_\_\_ 2015, BY A VOTE OF \_\_\_ IN FAVOR AND \_\_\_ OPPOSED.**

\_\_\_\_\_  
Richard Robb, Mayor

ATTEST:

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