

Introduced by: Public Safety and  
Transportation  
Commission  
Introduction Date: March 26, 2013  
Public Hearing: April 9, 2013  
Action: Failed  
Vote: 5-1

# CITY OF BETHEL, ALASKA

## Ordinance #13-08

### AN ORDINANCE AMENDING THE BETHEL MUNICIPAL CODE TITLE 9 PUBLIC PEACE, MORALS AND WELFARE

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

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

**SECTION 2. Amendment to BMC Title 9 Public Peace, Morals and Welfare** The Bethel Municipal Code is amended as follows (new language is underlined and ~~old language is stricken out~~):

#### **Chapter 9.12 OFFENSES AGAINST PUBLIC DECENCY**

Sections:

- 9.12.010 Public drinking – Prohibited.
- 9.12.020 Public drinking – Posted area.
- 9.12.030 ~~Public drinking – Fine.~~ Littering; Defacing Building or other Structure
- 9.12.040 ~~Drinking in motor vehicle or boat.~~ Public Excretion
- 9.12.050 ~~Begging.~~ Shoplifting – Under \$10.00
- 9.12.060 ~~Enticing into automobile.~~
- 9.12.070 ~~Illegal occupation.~~
- 9.12.080 ~~Obscene act.~~
- 9.12.090 ~~Sale of obscene material.~~

#### **9.12.010 Public Drinking – Prohibited.**

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

B. It is unlawful for any person to consume an alcoholic beverage on or along any public street, sidewalk, alley, or walkway; in any public park, mode of public transportation, ~~cemetery, dump site,~~ harbor, parking lot, or ice road under Bethel jurisdiction. ~~airport or schoolyard;~~ in any public building, or in any building held open for use by the public except for those areas in a commercial establishment reserved for limited or no use by the public or any building owned by the city held open for use by the public. [Prior code § 6.09.010.] No person shall drink any alcoholic beverage in or upon any motor vehicle or boat.

C. Violation of this section shall be punishable by a fine of not more than five hundred (\$500) dollars.

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### **9.12.020 Public drinking – Posted area.**

The city manager is authorized to designate public areas and places, in addition to those specified in BMC 9.12.010, in which the consumption of alcoholic beverages is prohibited, and to cause signs to be posted in such areas or places advising members of the public of the prohibition.

### **9.12.030 Littering; Defacing Building or other Structure**

- A. It is unlawful for any person to knowingly:
1. Litter in or on any property not his own on which he is not an invitee or licensee, or on any public building, park, recreation area, parking lot, street, or highway; or
  2. Mar or deface private or public property, including parks and recreation areas, without permission.
  3. In addition to all other fines and penalties provided for in subsection 8 of this section, persons violating this section shall remove or cause the removal of the litter and restore the property defaced at their sole expense and at the direction and under the supervision of the property owner or the City.
  4. If the person violating this section fails to remove the litter or restore the property as the case may be, the owner thereof may cause the same to be accomplished and charge the person responsible for doing so for the reasonable expense incurred and recover such expenses by civil action.
  5. Any act in violation of this section committed by a minor under the age of eighteen (18) years who is not a runaway, as that term is defined by AS 47.10.390, when the violation occurred, shall be imputed to that minor's parent or legal guardian who shall be liable for payment of the fine and expense of restoration.
  6. Subject to AS 47.10, persons under the age of eighteen (18) years, shall be subject to the provisions of this section, provided however, that in the event any such provision conflicts with or cannot be effected under the provisions of AS 47.10, the latter shall prevail and the person, court or agency having jurisdiction over such minor shall, whenever consistent with AS 47.10, apply the penalties, fines, repair and restoration provisions hereof as a part of its final disposition or as a condition of pre-trial/hearing diversion. Subject to the discretion of the court, agency or official having jurisdiction, the parent or legal guardian of a person under the age of eighteen (18) years violating this section shall accompany the minor to some or all of the minor's community service and repair, removal or restoration work.
  7. Nothing contained in this section shall in any way limit, abridge or deny the authority or discretion of any court under AS Title 12 or any agency or official under AS Title 47 and such court, agency or official may vary the sentence or other disposition imposed pursuant to such authority or jurisdiction for a violation of this section.
  8. Violation of this section shall be punishable by a fine of not more than One Hundred Fifty (\$150) Dollars which may be substituted by no less than One Hundred Fifty (150) hours of Community Work Service.

### **9.12.030 Public drinking – Fine.**

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~~A person who is guilty of drinking in public is punishable by a fine of not more than one hundred dollars (\$100). In no event shall any fine less than twenty dollars (\$25) be imposed and such fine shall not be suspended, nor may the punishment provided in this section be reduced under AS 11.05.150. [Prior code § 6.09.030.]~~

~~**9.12.040 Drinking in motor vehicle or boat.**~~

~~No person shall drink any alcoholic beverage in or upon any motor vehicle or boat. [Prior code § 6.08.130.]~~

**9.12.040 – Public Excretion**

- A. It is unlawful for any person to knowingly urinate or defecate in or on any public street, road, highway, alley, sidewalk, park or other public place open to public view which is not a lavatory facility.
- B. Violation of this section shall be punishable by a fine of not more than Two Hundred (\$200) Dollars.

**9.12.050 – Shoplifting Under \$10.00**

- A. Removal of Merchandise. It is unlawful for any person to take or remove any merchandise or thing valued at less than ten (\$10) dollars from the premises where such merchandise or thing of value is kept for purposes of sale, barter or storage without the consent of the owner or person lawfully entitled to its possession.
- B. Concealment of Merchandise. It is unlawful for any person, without authority, willfully to conceal upon or about his person any merchandise or thing valued at less than ten (\$10) Dollars upon the premises where such merchandise or thing of value is kept for the purposes of sale, barter or storage. Any merchandise or thing of value found concealed upon or about the person and which has not therefore been purchased by the person is prima facie evidence of willful concealment.
- C. As used in this section, the term “consent” shall mean express consent, or consent implied by possession of a sales ticket, slip or receipt issued for and accompanied by the article of merchandise or thing of value.
- D. Violation of this section shall be punishable by a fine of not more than One Hundred (\$100) Dollars.
- E. Any act in violation of this section committed by a minor under the age of eighteen (18) years who is not a runaway, as that term is defined by AS 47.10.390, when the violation occurred, shall be imputed to that minor’s parent or legal guardian who shall be liable for payment of the fine and expense of restoration.
- F. Subject to AS 47.10, persons under the age of eighteen (18) years, shall be subject to the provisions of this section, provided however, that in the event any such provision conflicts with or cannot be effected under the provisions of AS 47.10, the latter shall prevail and the person, court or agency having jurisdiction over such minor shall, whenever consistent with AS 47.10, apply the penalties, fines, repair and restoration provisions hereof as a part of its final disposition or as a condition of pre-trial/hearing diversion. Subject to the discretion of the court, agency or official having jurisdiction, the parent or legal guardian of a person under the age of eighteen (18) years violating this section shall accompany the minor to some or all of the minor’s community service and repair, removal or restoration work.

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**~~9.12.050 Begging.~~**

~~It is unlawful for any person in the city to beg in any street, alley or public place. [Prior code § 8.04.010, (2).]~~

**~~9.12.060 Enticing into automobile.~~**

~~It is unlawful for any person in the city to accost or endeavor to entice a person into an automobile. [Prior code § 8.04.010, (3).]~~

**~~9.12.070 Illegal occupation.~~**

~~It is unlawful for any person in the city to:~~

- ~~A. Engage in any illegal occupation or business;~~
- ~~B. Attend or frequent any place in which an illegal business is committed or conducted;~~
- ~~C. Solicit a person for the purpose of committing any illegal act. [Prior code § 8.08.010.]~~

**~~9.12.080 Obscene act.~~**

~~It is unlawful for any person in the city to:~~

- ~~A. Engage in any obscene conduct in any street, alley or public place; or~~
- ~~B. Make an obscene exhibition or exposure of his person. [Ord. 09-41 § 2; prior code § 8.16.010.]~~

**~~9.12.090 Sale of obscene material.~~**

~~It is unlawful for any person in the city to print, engrave, sell, offer for sale, give away, exhibit, publish or have in his possession for any such purpose any obscene books, pamphlets, paper, pictures, cast statuary, images or representations or other articles of an obscene nature. [Prior code § 8.16.020.]~~

**Chapter 9.20**

**OFFENSES BY OR AGAINST MINORS**

Sections:

- 9.20.005 Curfew – Definitions.
- 9.20.010 Curfew – Hours designated.
- 9.20.015 Curfew – Exceptions.
- 9.20.020 Curfew – Parental responsibility.
- 9.20.025 Helmet required – Parental responsibility.
- 9.20.030 Motion picture admittance – Person defined.
- 9.20.040 Motion picture admittance – “X” rating.
- 9.20.050 Motion picture admittance – “R” rating.

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9.20.070 Sale of Tobacco Products to Minors

9.20.080 Possession of Tobacco Products by Minors

9.20.090 Endangering the Welfare of a Minor in the 2<sup>nd</sup> Degree

**09.20.070 Sale of Tobacco Products to Minors**

A. It is unlawful for any person Nineteen (19) years of age or older to negligently sell, exchange or give cigarettes, cigars or tobacco in any form to any person under Nineteen (19) years of age.

B. Violation of this section shall be punishable by a fine of not more than Five Hundred (\$500) Dollars.

**09.20.080 Possession of Tobacco Products by Minors**

A. A person under nineteen (19) years of age may not knowingly possess a cigarette, a cigar, tobacco, or any product containing tobacco.

B. Violation of this section shall be punished by a fine of not more than Five Hundred (\$500) Dollars.

**9.20.090 Endangering the Welfare of a Minor in the 2<sup>nd</sup> Degree**

A. A person commits the offense of endangering the welfare of a child in the second degree if the person, while caring for a child under 10 years of age,

1. Causes or allows the child to enter or remain in a dwelling or vehicle in which a controlled substance is stored in violation of AS 11.71; or
2. Is impaired by an intoxicant, whether or not prescribed for the person under AS 17.30, and there is no third person who is at least 12 years of age and not impaired by an intoxicant present to care for the child.

B. In this section,

1. "Impaired" means that a person is unconscious or a person is physically or mentally affected so that the person does not have the ability to care for the basic safety or personal needs of a child with the caution characteristic of a sober person of ordinary prudence;
2. "Intoxicant" has the meaning given in AS 47.10.990.

C. Endangering the welfare of a child in the second degree is a violation punishable by a fine not to exceed Five Hundred (\$500) Dollars.

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