

Introduced by: Council Member DeWitt
Public Hearing and Adoption Date: August 31, 2020
Action: Passed
Vote: 7-0

CITY OF BETHEL, ALASKA

EMERGENCY ORDINANCE #20-26

AN ORDINANCE ADOPTING "THE CITY OF BETHEL COVID-19 RULES AND PROCEDURES," WHICH ADOPT STATE OF ALASKA TRAVEL PROTOCOLS FOR ALL INTERSTATE AND INTRASTATE NON-ESSENTIAL TRAVEL TO THE CITY

WHEREAS, the United States Centers for Disease Control and Prevention (CDC) has identified COVID-19 as a significant public risk; and

WHEREAS, on March 11, 2020, Governor Dunleavy issued a declaration of public health disaster emergency in response to the anticipated outbreak of COVID-19 within Alaska's communities; and

WHEREAS, on March 11, 2020, the World Health Organization designated the COVID-19 outbreak a pandemic; and

WHEREAS, various organizations, agencies, and local governments throughout the State of Alaska continue to restrict public gatherings, school sessions and programs, and other activities as well as non-essential travel in efforts to contain the virus; and

WHEREAS, on March 24, 2020, Bethel City Council adopted Ordinance 20-08, authorizing the City Manager and City Council to modify or suspend sections of the Bethel Municipal Code regarding public meetings and participation, procurement, contracts, leases and personnel rules in order to ensure the health, safety, and welfare of the City during a State-declared public health emergency; and

WHEREAS, on March 25, 2020, Bethel City Council adopted Ordinance 20-09, finding the existence of a public health emergency related to the COVID-19 outbreak, incorporating by reference the declaration of local disaster emergency issued by the Acting City Manager and Mayor on March 24, 2020; seeking state and federal funding assistance; and issuing certain health advisories and requests consistent with state and federal law; and

WHEREAS, on May 26, 2020, Bethel City Council adopted Ordinance 20-11 extending the declaration of emergency it previously issued, requiring explicit approval of Council before the adoption of any mandates or guidelines beyond the scope of the State of Alaska health mandates; and repealing Section 4 of Ordinance 20-09, which adopted travel and social distancing guidance within the City; and

WHEREAS, since June 2020, there has been a rapid increase in COVID-19 cases throughout Alaska and within Bethel and surrounding communities in the Yukon-Kuskokwim Delta region; and

WHEREAS, according to data compiled by the State of Alaska, total statewide cases of COVID-19 have increased nearly six-fold since June 1, 2020 (526 to 3,102 cases through July 26, 2020); and

WHEREAS, according to data compiled by the State of Alaska, total cases of COVID-19 in the Bethel Census Area have more than doubled in the month of July 2020; and

WHEREAS, the Bethel Airport is the primary point-of-entry for persons traveling from outside the Yukon-Kuskokwim Delta region to Bethel and other communities within the Yukon-Kuskokwim Delta region; and

WHEREAS, the Yukon-Kuskokwim Delta region is home to over fifty (50) small and remote communities which are located off the road system and which have limited medical infrastructure; and

WHEREAS, since May 2020 the Yukon-Kuskokwim Health Corporation (YKHC) has offered voluntary COVID-19 testing at the Bethel Airport for all persons arriving from outside the Yukon-Kuskokwim Delta region to Bethel; and

WHEREAS, since May 2020 approximately 25%-50% of all persons arriving at the Bethel Airport from outside the Yukon-Kuskokwim Delta region have participated in YKHC's voluntary testing; and

WHEREAS, approximately 50% of cases of COVID-19 in Bethel and the Yukon-Kuskokwim Delta region have been identified through YKHC's voluntary testing at the Bethel Airport; and

WHEREAS, Bethel City Council finds it is necessary to adopt additional public health mandates regarding air travel to Bethel from outside the Yukon-

Kuskokwim Delta region in order to contain the transmission of COVID-19 within its borders; and

WHEREAS, Bethel City Council has the authority to implement temporary local travel mandates relating to air travel to Bethel from outside the Yukon-Kuskokwim Delta region to mitigate COVID-19 within its borders and to protect the health of its residents based upon the following:

- Federal, State, and Local authorities have declared COVID-19 to be a public health emergency;
- AS 26.23.020(e), the State of Alaska Operations Plan, and the City of Bethel Emergency Operations Plan enable the City of Bethel to respond in times of a public health emergency;
- According to AS 26.23.060(h), a “political subdivision” permitted to act under AS 26.23 would include a municipality like Bethel, which has adopted and exercised its “health and safety” and “public peace, morals, and welfare” powers both through its Emergency Operations Plan and under Titles 1, 8, and 9 of the Bethel Municipal Code
- The “City of Bethel COVID-19 Emergency Rules and Procedures” adopt temporary requirements that are necessary and reasonable to protect public health and safety within the City and are narrowly tailored to limit the impact of these measures on the economic and personal liberties of all individuals and entities to which they apply;
- The Alaska Constitution, article X, section 1, provides that a liberal construction shall be given to the powers of local government units.
- Alaska Statute 29.25.030 expressly grants local communities the authority to adopt an emergency ordinance to meet a public emergency;
- Alaska Statute 29.35.260 permits a city outside a borough to exercise a power not otherwise prohibited by law;
- The Attorney General issued a guidance statement supporting a second class city’s authority to enact local mitigation measures during a public health emergency;
- In COVID-19 Health Mandate 018, Revised June 5, 2020, the Governor expressly delegated the power to enact local travel restrictions to local communities, with the exception of measures that prevent travel for Critical Personal Needs or the Conduct of Essential Services/Critical Infrastructure;
- The Governor and the Department of Health and Human Services have recognized the heightened risk of COVID-19 to residents of small, remote communities with limited medical infrastructure, and they have supported a policy that provides small communities with

the flexibility to enact public health mandates tailored to their particular circumstances. See Alaska Small Community Emergency Travel Order – Attachment B, Health Mandate 012, superseded.

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

Section 1. The Bethel City Council hereby adopts the City of Bethel Emergency COVID-19 Rules, which shall be adopted as follows:

Emergency Rule 1. Travel Quarantine and Testing. Except as provided in Emergency Rule 2, as long as COVID-19 testing is available at the airport, all persons arriving to the City of Bethel by means of commercial air transportation from a location outside the Yukon-Kuskokwim Delta region shall be required to provide proof of a negative COVID-19 test consistent with State of Alaska COVID-19 Health Mandate 10.1, as amended, or in the alternative shall take a COVID-19 test upon arrival to the region by the Yukon Kuskokwim Health Cooperation at the Alaska Airlines terminal in Bethel and shall self-isolate until notified of a negative result, or shall quarantine for a period of fourteen days following arrival to the region.

Emergency Rule 2. Travel for Critical Personal Needs and Essential Services/Critical Infrastructure. Except as otherwise provided in this rule, Emergency Rule 1 does not apply to persons arriving to the City of Bethel for Critical Personal Needs or the conduct of Essential Services/Critical Infrastructure as those terms are defined in Public Health Mandate 18. All workers exempt from Rule 1 under this rule, shall be required to provide a letter consistent with State of Alaska COVID-19 Health Mandate 10.1, Section VII. b., as amended.

Emergency Rule 3. As it pertains to Bethel Municipal Code 5.30. No person operating a vehicle for hire or public transportation shall offer to be for hire to any person arriving into the region at the Alaska Airlines terminal in Bethel unless providing proof of a negative COVID-19 test within the last 72 hours or proof that a COVID-19 test was administered at the Alaska Airlines terminal. Violation of Emergency Rule 3 is a violation of Bethel Municipal Code Chapter 5.30.

Section 2. Civil Immunity Asserted. In adopting and enforcing this ordinance, the City and its agents, officers, and employees assert and maintain all immunities and indemnifications provided for under AS 09.65.070, BMC 2.48, and any other immunities or indemnifications available in law or equity.

Section 3. Defense and Indemnification Agreements Authorized. The Council directs the administration to enter into any agreements with the Yukon Kuskokwim Health Corporation, including defense and indemnification agreements, necessary to implement this ordinance.

Section 4. Enforcement. The City reserves the right to use all available enforcement options to ensure compliance with this mandate including Alaska Statutes. Additionally, a violation of this mandate does not create grounds for residents to harass individuals who do not comply with it.

Section-4 5. Classification. This ordinance is not permanent in nature and is a non-codified ordinance that shall not become part of the Bethel Municipal Code.

Section-5 6. Effective and Expiration Date. This ordinance is effective 48 hours after adoption by City Council and shall remain in effect for a period of sixty (60) days from the effective date.

ENACTED THIS 31ST DAY OF AUGUST 2020 BY A VOTE OF 7 IN FAVOR AND 0 OPPOSED.



Perry Barr, Mayor

ATTEST:


Kevin Morgan, Deputy City Clerk