

CITY OF BETHEL, ALASKA

Ordinance #21-61

AN ORDINANCE BY THE BETHEL CITY COUNCIL AMENDING BETHEL MUNICIPAL CODE 2.04 TO EXPAND OPPORTUNITIES FOR PUBLIC COMMENT

WHEREAS, the City Council wishes to provide maximum opportunity for public input and participation at council meetings;

WHEREAS, the COVID-19 pandemic made clear that additional means to provide public testimony—such as telephonic participation and written testimony—would expand public participation in council meetings;

WHEREAS, the Bethel Municipal Code (BMC) does not currently provide standards for teleconference participation by members or the public, or for written testimony to be submitted;

WHEREAS, in expanding opportunities for public comment and participation, it is necessary to clearly outline standards to ensure compliance and consistency at council meetings;

WHEREAS, with expanded participation opportunities, the City must still ensure that council meetings are conducted in an efficient, effective, courteous, and legal manner, while also protecting and prioritizing public participation;

NOW, THEREFORE BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF BETHEL, ALASKA, the City Council

SECTION 1. Classification. This is a codified Ordinance and shall become part of the Bethel Municipal Code.

SECTION 2. Amendment. Bethel Municipal Code Chapter 2.04 is amended as follows, new language is underlined and old language is stricken.

Chapter 2.04
CITY COUNCIL

Sections:

- 2.04.010 Regular meetings.
- 2.04.020 Special meetings.
- 2.04.030 Public notice of meetings.
- 2.04.040 Length of meetings.
- 2.04.050 Rules of order.
- 2.04.060 Order of business.
- 2.04.070 Teleconference Participation.
- 2.04.080 Public Participation
- 2.04.090 Quorum
- 2.04.100 Presiding officer.
- 2.04.110 Mayoral powers and duties.
- 2.04.120 Councilmembers – Powers and duty to vote.
- 2.04.130 Council vacancies.
- 2.04.140 Procedures for filling council vacancies.
- 2.04.150 Executive sessions.
- 2.04.160 Voting.
- 2.04.170 Committee of the whole and work sessions.
- 2.04.180 Organization of council.
- 2.04.190 Resolutions.

2.04.200 Ordinance form and procedure.

2.04.210 Smoking.

2.04.220 Elected official training.

2.04.010 Regular meetings.

A. Regular meetings of the city council shall be held on the second (2nd) and fourth (4th) Tuesdays of each month.

B. A regular meeting may be postponed or rescheduled to another date upon a vote of the majority of the councilmembers at a previous regular or special meeting. A regular meeting may be postponed or rescheduled because of an expected lack of a quorum of the city councilmembers at the next scheduled regular meeting. At least one (1) regular meeting must be held each month.

C. Notice of the postponing or rescheduling of a regular meeting shall be given in accordance with BMC 2.04.025. If a regular meeting is rescheduled, it may not be rescheduled before six (6) days after the last regular meeting in order to give the public notice of the rescheduled date.

D. Unless otherwise stated in the public notice of the meeting, each regular meeting shall be held at City Hall in the City Council Chambers, which is located at 300 State Highway, and shall begin at 6:30 p.m.

2.04.020 Special meetings.

A. Special meetings of the city council may be held at the place, time, and upon the date set out in the public notice of the special meeting, provided:

1. The meeting is called by the mayor, the vice mayor if the mayor is absent from the city, or three (3) councilmembers; and

2. A majority of the members are given at least twenty-four (24) hours' oral or written notice and a reasonable effort has been made to give notice to all members;
or

3. If less than twenty-four (24) hours' oral or written notice is provided to a majority of councilmembers, then all members are present at the meeting or waive in writing the required notice either before or after the meeting and the waiver is made a part of the minutes of the meeting.

B. Delivery of written notice to the residence and to the place of employment of a councilmember constitutes a reasonable effort to notify.

C. Reasonable public notice of the special meeting must also be given.

~~2.04.025~~ 2.04.030 Public notice of meetings.

A. Reasonable public notice shall be given of all meetings of the city council and of committees of the council, including meetings of the committee of the whole and work sessions not held as part of a previously noticed regular or special council meeting.

B. The notice shall contain the date, time and place of the meeting and a preliminary agenda. The notice shall be posted on the bulletin board at City Hall and on at least three (3) other bulletin boards within the city at least six (6) days before the meeting. If the meeting will be teleconferenced to permit the participation of the public or one (1) or more councilmembers, the location of each teleconference site shall be given in the notice. The failure of the notice to meet one (1) or more conditions of this section does not constitute a failure to provide reasonable notice unless such failure violates the requirements of reasonable notice set out in AS 44.62.310.

~~2.04.030~~ 2.04.040 Length of meetings.

A. Unless extended by motion, all regular and special meetings of the city council shall end at 11:00 p.m.; provided no action taken by the city council shall be invalid solely

because the action was taken after 11:00 p.m. without first (1st) extending the time for adjournment.

B. After midnight any meeting of the council may be recessed to 6:30 p.m. the following day upon unanimous consent of the city council.

~~2.04.040~~ 2.40.050 Rules of order.

Robert's Rules of Order shall govern the procedures of the council, except as may be modified by resolution of the council or as otherwise required by law or ordinance.

~~2.04.050~~ 2.40.060 Order of business.

A. The business of the council at regular meetings shall be conducted in the following order:

Call to order;

Pledge of allegiance;

Roll call;

Persons to be heard;

Approval of agenda and consent agenda;

Approval of minutes;

Reports of standing committees;

Unfinished business;

New business;

Mayor's report;

Manager's report;

Clerk's report;

Councilmember comments;

Executive session;

Adjournment.

B. The clerk shall prepare an agenda for each regular and special meeting. The clerk shall place on the agenda items requested by the council, the mayor, a councilmember, a council committee, or the manager. The agenda for regular meetings shall include all items from the preceding regular meeting that were not reached for action. All materials for the councilmembers' agenda packets should be submitted by 5:00 p.m. to the clerk one (1) week before the next regular meeting. The agenda packets shall be given to the councilmembers five (5) days before the next regular meeting by 8:00 p.m.

C. The council may delete items from the agenda, change the order of any items on the agenda, and may establish a time certain that specified items will be taken up. The mayor or the council may place limits on the amount of time persons will be given to address the council under any kind of business.

2.04.070 Teleconference participation by council members or the public in council meetings.

A. "Teleconferencing" means remote participation in meetings of the council by telephone or web-based format.

B. If teleconferencing is available, the public notice of meetings shall state the means of accessing teleconferencing.

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C. If teleconferencing is available, materials to be considered by the body shall be made available to those attending by teleconference.

D. A member of the body participating by teleconference shall be deemed to be present at the meeting for all purposes. The body member shall make every effort to participate in the entire meeting.

E. If teleconference equipment is available, members of the public shall connect to the meeting through published public meeting notice.

2.04.055 2.04.080 Public participation.

~~A. Any person or group of persons wishing to address the city council at a regular or special city council meeting must first sign the people to be heard register and indicate the agenda item or items which they wish to address. The individual(s) shall only address the city council at the people to be heard portion of the council meeting only once and shall have a time limit of five (5) minutes to address the council, unless otherwise specified by a majority vote of the council.~~

~~B. Any person or group of persons wishing to address the city council at a regular or special city council meeting on an item or items not on the agenda must sign the people to be heard register and indicate the subject or subjects they wish to address. The individual(s) shall only address the city council at the people to be heard portion of the council meeting only once and shall have time limit of five (5) minutes to address the council, unless otherwise specified by a majority vote of the council.~~

~~C. People signed up for people to be heard will be called upon in the order in which their name appears on the people to be heard register.~~

~~D. A councilmember may only ask question(s) of a person or persons signed up under people to be heard during public hearing of ordinance or as otherwise permitted.~~

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~~E. Repealed by Ord. 09-02.~~

~~F. During people to be heard the chair or majority vote of the council may extend the public hearing time limit for any person or group of persons, depending on the relevance of the issue.~~

~~G. Any person or persons wishing to address the city council at a regular or special city council meeting under public hearing will be given the opportunity during the time of the public hearing. The chair will open the public hearing and ask if anyone wishes to speak on the public hearing item.~~

~~After being called upon the person or persons must approach the council, sign the public hearing register and shall have a time limit of five (5) minutes to address the council, unless otherwise specified by a majority vote of the council.~~

Public comment shall be allowed at every regular and special public meeting. Public comment shall be received by the council only during people to be heard, public hearings, or when authorized by the body.

A. During public hearings, public comments shall be limited to the matters directly related to the public hearing item.

B. Verbal public comment

1. A person making verbal public comment shall be limited to five (5) minutes unless a longer or shorter time for public comment is approved by the body and offered to each person wishing to provide public comment.
2. Verbal public comment shall be accepted from people present at the time of the meeting, including those present by teleconference, if teleconferencing is available.
3. When called by the presiding officer, a person providing verbal public comment shall state and spell their legal name and state their city of residence, but shall not be required to disclose their mailing or home address unless this information is necessary or required based on the subject matter of the testimony.

4. Persons providing verbal public comment shall be limited to providing comment on an item once within the meeting.
5. All remarks must be addressed to the presiding officer or to the body as a whole.
6. In general, a member of the body should not respond to verbal public comment, except to ask clarifying questions.

C. Written public comment

1. Written public comment must be submitted twenty-four (24) hours before the meeting in order for the comment to be considered part of the meeting record. Timely submitted written public comment will be electronically distributed to councilmembers at least six (6) hours before the meeting. Written public comment received up to twenty-four (24) hours after the meeting will be forwarded to the council members but not held or recorded as part of the meeting record.
2. Written public comment shall be submitted on a form provided by the city clerk.
3. Written public comment shall be limited to 650 words. Written public comment submitted out of compliance with this section will be retained, but considered general correspondence to the body, and therefore not held or recorded as part of the meeting record.
4. A person providing written public comment shall identify themselves by their legal name and their city of residence, but shall not be required to disclose their mailing or home address unless that information is necessary or required based on the subject matter of the testimony.
5. Written public comment on an item scheduled for a public hearing will be recorded as part of the public hearing record unless the written comments include testimony unrelated to the public hearing, in which case it will be recorded under people to be heard.
6. Written public comment shall be distributed to the members, filed with the meeting record, but shall not be read aloud.
7. Written public comment and the information in the submission, including the commenter's contact information, shall not be altered by staff and shall be considered a public record.
8. Written public comment timely submitted but out of compliance with the standards outlined in this section, shall be ruled out of order by the chair and not retained as part of the meeting record.

D. Public decorum.

1. The presiding officer will preserve decorum during meetings and decide all points of order, subject to appeal of the body.
2. Members of the public should not engage in debate or attempt to join in the body's deliberation.
3. City staff and all other persons attending meetings must observe the body's rules of procedure and adhere to the same standards of decorum as members of the body.
4. Audience members may not obstruct the ability of the body to conduct its business. Any audience member who does so may be deemed out of order and the presiding officer may have the person removed from the meeting for the remainder of that meeting.
5. In the event of a loss in decorum, the presiding officer has the option to adjourn the meeting. The meeting will be rescheduled and published in compliance with law.
6. Disruptions to public meetings are prohibited. Disruptions include but are not limited to:
 - a. Failure of a speaker to comply with the allotted time for comment;
 - b. Outbursts from members of the public who have not been recognized by the presiding officer for public comment;
 - c. Comment that are unrelated to the particular proposed Ordinance, Resolution, or other legislative action on which a public hearing is being held;
 - d. Delaying the orderly conduct or progress of the public comment period, including failure to respect the process of accommodating individuals who wish to provide public comment;
 - e. Use of an allotted individual comment period for purposeful delay, including remaining silent or engaging in other activity without conveying a discernible message;
 - f. Abusive and harassing behavior, including the use of obscene gestures; assaults or threatening behavior; or sexual misconduct, such as indecent exposure, offensive touching, or sexual harassment, including threats of such behavior.
 - g. Any other behavior that may constitute disorderly conduct under state or local law.

~~2.04.060~~ 2.04.090 Quorum.

At all meetings of the council, four (4) members shall constitute a quorum for the transaction of business. Councilmembers who are present but disqualified from voting on a matter are present for purposes of determining a quorum. In the absence of a quorum, a majority of the councilmembers present may recess or adjourn the meeting to a later date. At least four (4) affirmative votes are required to approve any action of the council except when the council acts in a quasi-judicial capacity.

~~2.04.070~~ 2.04.100 Presiding officer.

The mayor shall be the presiding officer at council meetings. In the absence of the mayor from the meeting, the vice mayor shall preside. If neither the mayor or vice mayor is present, the members present shall elect one (1) of the remaining members as mayor pro tempore. In such event the mayor pro tempore shall preside at such council meeting and otherwise perform the duties of mayor during the period the mayor and vice mayor are absent.

~~2.04.080~~ 2.04.110 Mayoral powers and duties.

A. The mayor is the ceremonial head of the city and shall preside at meetings of the council, sign all ordinances and resolutions passed by the council and execute deeds and other documents on behalf of the city when authorized by the council.

B. The vice mayor shall have the powers and perform the duties of the mayor during the absence from the city or temporary disability of the mayor.

C. The mayor and vice mayor, as members of the council, may vote on all matters.

~~2.04.090~~ 2.04.120 Councilmembers – Powers and duty to vote.

A. Councilmembers have the right to place matters on the agenda for a regular or special meeting, make and second (2nd) motions at meetings, introduce ordinances and resolutions, propose policies or actions, vote on matters before the council, accept

appointments to and chairmanships of standing, special or other committees, and to exercise all other powers that derive from their elected position.

B. Each member of the council present shall vote on each question before the council unless required by law to abstain.

~~2.04.100~~ 2.04.130 Council vacancies.

A. The city council shall declare a council seat vacant when the person elected:

1. Fails to qualify or take office within thirty (30) days after election or appointment;
2. Is physically absent from the city for ninety (90) consecutive days unless excused by the council;
3. Resigns and the resignation is accepted;
4. Is physically or mentally unable to perform the duties of office as determined by a two-thirds (2/3) vote of the council;
5. Is convicted of a felony or of an offense involving a violation of the oath of office;
6. Is convicted of a felony or misdemeanor described in AS 15.56 and two-thirds (2/3) of the members of the council concur in expelling the person elected;
7. Is convicted of a violation of AS 15.13;
8. No longer physically resides in the city and the council by a two-thirds (2/3) vote declares the seat vacant; this subsection does not apply to a member of the council who forfeits office under AS 29.20.140(a); or
9. Misses three (3) regular meetings in a calendar year and is not excused.

B. If a vacancy occurs on the city council, the remaining members shall, within thirty (30) days of the vacancy, and subject to AS 29.20.180, appoint a qualified Bethel voter to fill the vacancy in accordance with the procedures established in BMC 2.04.105. The person appointed to fill the vacancy shall serve until the next regular election and until a successor is elected and has qualified for the vacated council seat. The elected successor shall serve the remainder of the term of the vacated council seat.

~~2.04.105~~ 2.04.140 Procedures for filling council vacancies.

A. The council shall meet in a regular or special meeting to appoint a qualified person to fill a vacancy. The council may request that persons interested in filling the vacant seat write a letter of interest to be submitted to the city clerk by the specified deadline in the public notice of a council vacancy. The person submitting a letter of interest to fill a vacant council seat may attach any relevant information such as a resume to their letter of interest. The council shall nominate a qualified person to fill the vacant seat. If there is not a person qualified out of those persons who submitted a letter of interest to fill the vacant council seat, the council may nominate a qualified person who has not applied for the vacant council seat. Nominations for the vacant seat shall be made by a motion approved by the council. Once all nominations are made, councilmembers shall cast votes simultaneously by written ballot for persons nominated. All of the ballots will be collected by the city clerk who shall thereafter publicly announce the vote of each councilmember. The person who receives a majority of the votes shall fill the vacant seat.

B. If none of the persons nominated receives a majority of votes in the first (1st) round of balloting, the procedure provided for in subsection A of this section shall be repeated no more than twice. If none of the persons nominated receives a majority of votes in the third (3rd) round of balloting, the vacancy shall be filled by a drawing of straws by the two (2) nominees who received the highest and second (2nd) highest

number of votes. The nominee who draws the longest straw shall fill the vacant council seat. The mayor may designate a person to draw straws for any absent candidate.

C. If it is not possible to determine the nominees with the two (2) highest vote counts because of a tie in votes between the nominees who have the second (2nd) highest number of votes in the third (3rd) round of balloting, the seat shall be filled by a drawing of straws conducted in accordance with subsection B of this section by the person who received the highest number of votes and the persons who tied for second (2nd) place. If there is a tie vote between the nominees who have the highest number of votes in the third (3rd) round of balloting, the seat shall be filled by a drawing of straws by these nominees conducted in accordance with subsection B of this section.

D. The mayor shall publicly announce which person drew the longest straw and that person shall fill the vacant council seat.

~~2.04.110~~ 2.04.150 Executive sessions.

A. If permitted subjects are to be discussed by the council in executive session at a meeting, the meeting must first (1st) be convened as a public meeting and the question of holding an executive session to discuss matters that are listed in subsection B of this section shall be determined by a vote on a motion to convene in executive session. The motion to convene in executive session must clearly and with specificity describe the subject of the proposed executive session without defeating the purpose of addressing the subject in private. Subjects may not be considered at the executive session except those mentioned in the motion calling for the executive session unless auxiliary to the main subject. Action may not be taken at an executive session, except to give direction to an attorney or labor negotiator regarding the handling of a specific legal matter or pending labor negotiations.

B. The following subjects may be considered in an executive session:

1. Matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the city;
2. Subjects that tend to prejudice the reputation and character of any person, provided the person must first (1st) be notified of the request for executive session and may request a public discussion;
3. Matters that by law or ordinance are required to be confidential; and
4. Matters involving consideration of government records that by law are not subject to public disclosure.

~~2.04.120~~ 2.04.160 Voting.

- A. Except as provided in subsection B of this section, the vote on each motion shall be conducted and recorded in such a manner that the public may know the vote of each councilmember. If unanimous consent is requested, a roll call vote shall be conducted if any councilmember objects. During teleconference meetings, the telephonic participants shall be asked which way they vote.
- B. The council may vote by secret ballot on questions that are necessary to organize the council.

~~2.04.130~~ 2.04.170 Committee of the whole and work sessions.

- A. The presiding officer may, upon concurrence of the council or if there is no objection from the council, resolve the council into a committee of the whole. In a committee of the whole, any person present may be heard provided the testimony of the person deals with the subject matter under consideration. The presiding officer shall enforce decorum and may establish time limits and other rules for speakers. The presiding officer may, upon concurrence of the committee or if there is no objection from the committee, dissolve the committee of the whole whereupon the members are

reconvened as the city council if the committee of the whole meeting was convened from a council meeting.

B. The council may meet in a work session. The presiding officer may permit interested persons to speak before the council at work sessions.

C. The rules of procedure may be relaxed by the presiding officer in committee of the whole ~~and at work sessions~~. No council action may be taken at committee of the whole ~~or work sessions~~, but the group may request information be provided, matters be scheduled, documents drafted for council consideration, and may formulate recommendations to the council and take similar actions. Minutes of committee of the whole ~~and work sessions~~ are not kept ~~unless requested by the presiding officer~~.

~~2.04.140~~ 2.04.180 Organization of council.

A. Newly elected and reelected councilmembers shall be sworn in at the first (1st) regular council meeting following certification of the election. The council shall then meet on the first (1st) Monday after certification of the regular election and elect from among its members a mayor and a vice mayor who shall take office immediately. For purposes of this subsection A, certification of a regular election in which there is a runoff election occurs when the runoff election results are certified.

B. The term of the mayor expires upon the earlier of the election of a new mayor or the swearing in of the newly elected councilmember who replaces the councilmember who is the mayor. The mayor may serve only while a member of the council regardless of the term established for the office of mayor.

C. The term of the vice mayor expires in the same manner as provided for the mayor.

D. The term of a councilmember shall be two (2) years.

E. If there is a vacancy in the mayor and vice mayor's position during the interim period from certification of the newly elected councilmembers until the election of a new mayor and vice mayor, the council shall follow BMC 2.04.070 and elect a mayor pro tempore to preside until a mayor is elected.

F. The mayor shall appoint councilmembers to such special or adhoc council committees as the mayor may establish and shall appoint councilmembers to such standing council committees as the council establishes pursuant to BMC 2.60.020. Appointees to council committees serve at the pleasure of the council. The term of council committee members expires annually upon the election of the mayor.

~~2.04.150~~ 2.04.190 Resolutions.

A. Expressions of council policy which are placed into writing but do not require the force of an ordinance may be accomplished by resolution. A resolution may be introduced by a councilmember, a committee of the council or the manager. Resolutions shall be in writing, shall be assigned a serial number by the clerk, and may be adopted at the meeting at which introduced. Each resolution shall contain:

1. A title that summarizes the resolution;
2. A serial number assigned by the clerk;
3. "Whereas" clauses as appropriate;
4. A resolved clause reading: "NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BETHEL";
5. One or more clauses or sections setting out the position, policy or decision of the council; and
6. The date of adoption, to be supplied by the clerk after adoption.

B. Resolutions shall become effective immediately upon adoption unless a different effective date or time is set out in the resolution. The mayor or councilmember who presided over the meeting when the resolution was adopted shall sign the resolution and the clerk shall sign and affix the seal of the city to each adopted resolution.

~~2.04.160~~ 2.04.200 Ordinance form and procedure.

A. All actions of the council set out in AS 29.25.010 shall be by ordinance.

B. Each ordinance must have a descriptive title, a serial number assigned by the clerk, and an enacting clause reading: "BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF BETHEL, ALASKA."

C. An ordinance may be introduced by a councilmember, or committee of the council, or by the city manager. The ordinance, as approved or amended by the council for introduction, shall be set for a public hearing by the council and acted upon as follows.

1. A summary of the ordinance shall be published, together with notice of the time and place for the public hearing at least five (5) days prior to the hearing. If publication is by posting, publication does not occur until the notice has been posted for five (5) days in at least three (3) public places.
2. At the public hearing, copies of the proposed ordinance shall be available to all persons present or the ordinance shall be read in full.
3. After hearing all interested parties wishing to be heard, the council shall consider the proposed ordinance and may adopt it with or without amendment. A new hearing is not required when an ordinance is amended unless the amendment has the effect of changing the basic character of the ordinance as described in the summary in the notice of the hearing.

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D. An ordinance shall take effect immediately upon adoption unless a different effective date or time is set out in the ordinance.

E. The mayor or the councilmember who presided over the meeting when the ordinance was adopted shall sign the ordinance and the clerk shall insert the date of adoption, sign the ordinance and affix the seal of the city to each adopted ordinance.

~~2.04.170~~ 2.04.210 Smoking.

Smoking and use of tobacco in any form may constitute a nuisance and a health hazard and is prohibited in the council chambers during public meetings.

~~2.04.180~~ 2.04.220 Elected official training.

The municipal officers shall administer a training program to elected officials within forty-five (45) days of the certification of the regular election. The training program topics will be:

- A. Legal powers and obligations;
- B. Financial responsibilities and city budgeting;
- C. Land use and planning;
- D. Relationship between council and staff;
- E. Understanding the meeting process and terms.

SECTION 3. Effective date. This ordinance shall become effective February 1, 2022.

**BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF BETHEL, ALASKA
THIS __ DAY OF JANUARY 2021 BY A VOTE OF _ IN FAVOR AND _ OPPOSED.**

Mark Springer, Mayor

ATTEST:

Lori Strickler, City Clerk