

Introduced by: Interim City Manager Foley  
Introduced: October 14, 2008  
Public Hearing: October 28, 2008  
Action: Passed  
Vote: 6-0

# CITY OF BETHEL, ALASKA

## Ordinance #08-19

### AN ORDINANCE AMENDING CHAPTER 4.18 OF THE BETHEL MUNICIPAL CODE REGARDING THE BETHEL ENDOWMENT FUND

**WHEREAS**, in 1993 the Bethel City Council adopted Ordinance 93-27, which established the Bethel endowment fund for the purpose of maximizing income for the continuing operations of the general government of the City; and

**WHEREAS**, the Bethel endowment fund was intended to be secure from invasion, which is only allowed upon approval of a majority vote of the public at a general or special election; and

**WHEREAS**, the Bethel endowment was invaded during fiscal year 2007 and revealed during the FY2008 annual audit report; and

**WHEREAS**, the annual audit report and subsequent *Report on Forensic Procedures on Endowment Fund and Investments (September 4, 2008)* highlighted deficiencies in internal controls designed to protect the endowment fund, and deviations from Bethel Municipal Code 4.18 Bethel Endowment Fund; and

**Whereas**, the City of Bethel has taken steps to correct the internal control deficiencies, and recognizes the need to amend BMC 4.18 to reflect needed changes in the management procedures of the Endowment fund investments.

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

**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 to include the following new language:

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**Chapter 4.18**  
**BETHEL ENDOWMENT FUND**

**Sections:**

- 4.18.010 Fund established.**
- 4.18.020 Purpose of fund.**
- 4.18.030 Investments.**
- 4.18.040 Accounting for earnings.**
- 4.18.050 Procedure for repeal.**
- 4.18.060 Reinvestment proposals.**

**4.18.010 Fund established.**

There is established as a separate fund named the Bethel endowment fund. The Bethel endowment fund consists of the money originally appropriated to the Bethel endowment fund by the city council, called the principal, plus the accumulation of thirty (30) percent of the annual net income for each year since inception. ~~Such appropriation may be made by inclusion of the amounts to be appropriated in the annual budget or may be made by separate ordinance. [Ord. 93-27 § 1.]~~

**4.18.020 Purpose of fund.**

The purpose of the Bethel endowment fund is to maximize income for the continuing operations of general government of the city. Seventy (70) percent of the net income of the previous year ~~All income from the Bethel endowment fund shall be deposited in the general fund upon submission~~ adoption of the annual budget each year. [Ord. 93-27 § 1.]

**4.18.021 Fund Management**

A. A separate single investment account recommended by the finance director with concurrence by the city manager and approved by the city council by majority vote, will be established for holding the Bethel endowment fund principal.

B. The city manager is directed to prepare the annual budget for submission to the city council not later than the fifteenth (15<sup>th</sup>) day of March of each calendar year. Concurrently, the city manager shall cause to be introduced an ordinance proposing an appropriation to the general fund of monies in an amount equal to seventy (70) percent of the endowment fund's net income of the previous fiscal year. In the event that there were no earnings from the previous fiscal year, no appropriation to the general fund will be proposed.

C. The City of Bethel finance director, or the assistant finance director in the absence of the finance director, will submit a complete written disclosure of the status of the Bethel

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endowment fund monthly to the city council. A copy of this disclosure will provided to the city manager.

#### **4.18.030 Investments.**

A. The "~~P~~prudent ~~M~~man" Rule shall be applied in the management and investment of the Bethel endowment fund assets. ~~The "prudent man rule"~~ This Rule means that in making investments the same judgment and care under the circumstances then prevailing shall be exercised which an institutional investor of ordinary prudence, discretion, and intelligence exercises in the management of large investments entrusted to it not in regard to speculation, but in regard to the permanent disposition of funds, considering probable safety of capital as well as probable income.

B. The Bethel endowment fund assets shall only be used for income-producing investments. [Ord. 93-27 § 1.]

#### **4.18.040 Accounting for earnings.**

The net income of the Bethel endowment fund shall be computed in accordance with generally accepted accounting principles (GAAP). [Ord. 93-27 § 1.]

#### **4.18.050 Procedure for repeal.**

A. ~~The principal of the Bethel endowment fund shall not be invaded except by ordinance duly adopted by the city council. unless approved by a majority of the voters at a general or special election called for that purpose by the city council.~~ [Ord. 93-27 § 1.]

B. If a majority of the voters approve an invasion of the Bethel endowment fund, an ordinance will be created to that effect and duly adopted by the Bethel city council.

BC. Upon introduction of an ordinance invading the principal of the Bethel endowment fund, the city manager must provide ~~for the maximum practicable~~ at least one (1) month public notice of said ordinance. This notice shall include the holding of at least two (2) informational meetings open to the public. At least two (2) such meetings shall be held prior to the public hearing on the proposed ordinance before the city council.

~~C. An ordinance that invades the principal of the Bethel endowment fund shall not take effect unless approved by a majority of the vote at a general or special election called for that purpose.~~ [Ord. 93-27 § 1.]

#### **4.18.060 Reinvestment proposals.**

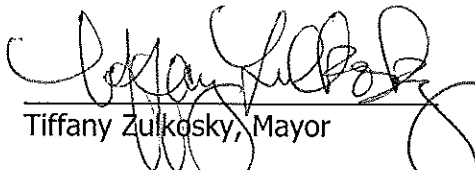
A. Simultaneous with the submission of the annual budget, the city manager shall cause to be introduced an ordinance proposing appropriation and reinvestment of an appropriation to the Bethel endowment fund of funds in an amount equal to thirty (30) percent of the Bethel endowment fund's net income of previous year.

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~~B. The city manager is directed to annually prepare the annual budget for submission to the city council assuming appropriation to the Bethel endowment fund of the amount calculated under subsection A of this section.~~

~~C. The method used by the city manager to approximate the inflation rate shall be based upon a nationally recognized index for the prior calendar year. [Ord. 93-27 § 1.]~~

**ENACTED THIS 28th DAY OF OCTOBER, 2008 BY A VOTE OF 6 IN FAVOR AND 0 OPPOSED.**

  
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Tiffany Zulkosky, Mayor

ATTEST:  
  
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Lori Strickler, City Clerk