




## VETO MESSAGE

**TO:** DILLINGHAM CITY COUNCIL  
**FROM:** MAYOR ALICE RUBY  
  
**DATE:** MARCH 27, 2020  
**RE:** VETO OF ORDINANCE NO. 2020-05(A)

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After very serious consideration, I have vetoed Ordinance No. 2020-05(A) as amended at yesterday's meeting. This is the veto message required by DMC 2.18.030(B).

I am concerned this ordinance as amended did not accurately reflect the will and intent of the city council. A motion was made to delete Section 5 of the ordinance and replace it with the Nome permit system. I believe the intent was to allow unrestricted travel from Dillingham but to require a permit from the city manager for travel to Dillingham. The city attorney has informed me that is not the Nome permit system. The Nome permit system only applies to outbound travel from Nome. Nome has in place a ban on non-essential air travel into Nome. There is no permit system for in bound travel. Because I believe the actual intent of the majority of the city council that approved Ordinance No. 2020-05(A) was not consistent with the wording used in the motion to amend I am vetoing the ordinance.

If the Council wishes to override the veto, you may request that a Veto Override be placed on the April 2 Council meeting agenda. Unless requested, it will not be placed on the agenda. Rather, the ordinance as revised to meet what I believe was council's intent will be on the agenda for the April 2 meeting. A draft will be circulated for your review more than 24 hours in advance of the meeting at the same time it is made available to the public. I think technical issues with Zoom and the teleconference contributed to this. Staff and I will be working on improvements and welcome input on how to make the April 2 meeting operate more smoothly.

CITY OF DILLINGHAM, ALASKA

**EMERGENCY ORDINANCE NO. 2020-05(A)**

**AN EMERGENCY ORDINANCE OF THE DILLINGHAM CITY COUNCIL; 1) ESTABLISHING A TEMPORARY LAND USE DISTRICT CALLED THE ESSENTIAL AIR TRAVEL DISTRICT; 2) LIMITING PERMITTED USES WITHIN THE ESSENTIAL AIR TRAVEL DISTRICT TO THOSE PERSONS ENGAGED IN ESSENTIAL AIR TRAVEL AND 3) REQUIRING CERTAIN PERSONS DISEMBARKING AT PLANES IN DILLINGHAM TO SELF-QUARANTINE FOR FOURTEEN DAYS**

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BE IT ENACTED BY THE DILLINGHAM CITY COUNCIL:

**Section 1. Legislative Findings:**

1. The United States Center for Disease Control and Prevention ("CDC") has identified the COVID-19 virus as a new strain of coronavirus not previously identified in humans, causing respiratory disease that can result in serious illness or death and which poses a significant public health risk.

2. On March 11, 2020, the World Health Organization declared a pandemic related to COVID-19.

3. The Covid-19 pandemic is being compared to the 1918 flu pandemic.

4. On March 11, 2020, Governor Mike Dunleavy declared a Public Health Disaster Emergency in the State of Alaska; and

5. On March 19, 2020, the Dillingham City Council approved the closure of certain public facilities through April 5, 2020 and adopted Resolution 2020-11 Declaring a Public Health Disaster Emergency per AS 26.23.140 and Dillingham Municipal Code Section 2.64.0020(B) to exist in Dillingham.

6. On March 13, 2020, President Donald Trump declared a National Emergency.

7. The CDC has recommended all persons at higher risk for COVID-19 complications avoid all nonessential air travel.

8. On March 20, 2020 the United States State Department issued a Level 4 Travel Advisor "Do Not Travel" advising all United States citizens to avoid all international travel due to the global impact of Covid-19; and

9. On March 17, 2020, the Governor of the State of Alaska issued Covid-19 Health Mandate 004 "to prevent or slow the spread of Coronavirus Disease" which mandated a 14 day self-quarantine for persons traveling from CDC Level 3 Travel Health Notice Areas

10. On March 24, 2020, the Curyung Tribal Council adopted Resolution 2020-11 recommending that all non-essential air travel into and out of the community of Dillingham cease by 12:01 a.m. March 26, 2020 and recommended this restriction apply to travel from other villages as well as from regional centers and Anchorage and apply to all forms of transportation including air travel, snow machine and other ground and water transportation.

11. As of the date of adoption of this Emergency Ordinance, the only access to and from Dillingham from other places in the world is by snow machine over land and through regularly scheduled or chartered air services which use the Dillingham Airport.

12. As of the date of this Emergency Ordinance there are no known cases of Covid-19 in Dillingham.

13. As of Sunday March 22 there were 13 confirmed cases of Covid-19 in Anchorage.

14. The most effective way to prevent introduction of the Covid-19 virus to Dillingham is through prevention of persons from outside Dillingham who are infected with Covid-19 from entering Dillingham through the Dillingham Airport Terminal.

15. The CDC and federal and state health authorities have recommended all persons practice "social distancing" by remaining at least a six foot separation from other persons at all times and;

16. It is frequently not possible to maintain a six foot separation from other persons when using commercial air services between Dillingham and Anchorage or Dillingham and other cities in the Bristol Bay region due to the small size of the aircraft used to provide air transportation.

17. The President's Coronavirus Guidelines for America recommends that people AVOID SOCIAL GATHERINGS OF MORE THAN TEN PEOPLE.

18. Traveling by air between Dillingham and other locations in Alaska frequently involves social gatherings of more than ten people.

19. The President's Coronavirus Guidelines for America recommends persons "AVOID DISCRETIONARY TRAVEL".

20. The President's Coronavirus Guidelines for America recommends persons LISTEN TO AND FOLLOW THE DIRECTIONS OF YOUR STATE AND LOCAL AUTHORITIES.

21. On March 19 the Emergency Room medical directors of Joint-Base Elmendorf Richardson Hospital, Providence Alaska Medical Center, Alaska Regional Hospital, the Alaska Native Medical Center, Fairbanks Memorial Hospital, Bartlett Regional Hospital, the Mat-Su Regional Medical Center, the Central Peninsula Hospital, the President of the Alaska Chapter of the American College of Emergency Physicians and the Immediate Past President of the Alaska Chapter of the American College of Emergency Physicians recommended an immediate statewide ban on non-essential air travel to and from Alaska and immediate consideration of a similar ban on non-essential air travel within Alaska as a reasonable and prudent measure to reduce the impact and spread of coronavirus.

**Section 2. Finding of Emergency.** The City Council hereby finds the facts set forth in Section 1 constitute an emergency.

**Section 3. Authority.** This ordinance is enacted pursuant to the general police powers of the City of Dillingham and the City's authority to establish land use regulations to protect the public health and general welfare of persons in Dillingham under Section 18.08.010 of the Dillingham Municipal Code.

**Section 4. Establishment of Essential Air Travel District.** The Essential Air Travel District is hereby created. The Essential Air Travel District encompasses that property beginning at the southerly intersection of West Airport Road and Airport Road then continuing on West Airport Road until the intersection of West Airport Road and North Airport Boundary Road then southerly along Airport Road until again intersecting with West Airport Road and those parcels of property adjacent thereto numbered 620, 638, 708, 720, 732, 750, 812 and 820 on the City of Dillingham Public Map.

**Section 5. Permitted Use.** No person intending to fly out of Dillingham may enter the Essential Air Travel District unless that person has applied for and been issued an Essential Air Travel Services use permit by the City Manager.

**Section 6. Essential Air Travel Services Use Permits.** An Essential Air Travel Use Permit ("Permit") may be issued at the discretion of the City Manager provided the applicant provides sufficient information to lead the city manager to reasonably conclude there is a need to use property within the Essential Air Travel Services District which is sufficiently similar to a Permitted Use as described in Section 9 of this Ordinance to constitute essential air travel.

**Section 7. Permit Application.** Applications for an Essential Air Travel Use Permit shall be submitted to the city clerk using an application form prepared by the City. A decision shall be made within 24 hours after the application is submitted.

**Section 8. Appeal.** Any denial of the travel permit shall be in writing and state the reasons therefore. Denials of a permit by the city manager may be appealed to the Mayor by submitting a written notice of appeal. The Mayor's decision on appeal shall be the final city action on the application.

**Section 9. Prohibited Use.** No person other than a person identified as a critical infrastructure worker in the Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response Version 1.0 issued by the Department of Homeland Security dated March 19, 2020 (Critical Infrastructure Workers) or a person who has been flown to Dillingham to receive critical medical care may disembark at the Dillingham Airport and enter the Essential Air Travel District ("Permitted Use").

**Section 10. Finding of Probable Cause.** There is probable cause to believe that the circumstances set forth in this Order mean any delay in seeking a state-ordered or judicially-ordered quarantine would pose a clear and immediate threat to public health such that a limited quarantine of a group of individuals is the least restrictive alternative and is necessary to prevent, reduce or limit the spread of the corona virus within Dillingham.

**Section 11. Mandatory Quarantine.** In addition to the limitations on use of property within the Essential Air Service District set forth above, this order imposes a quarantine on the following identified group of individuals ("Quarantine Group"):

Any person disembarking at the Dillingham Airport whose air transportation originated from another location within Alaska and who has entered the Essential Air Travel District in violation of Section 9 shall self-quarantine for a period of 14 days upon arriving at their destination and, monitor for symptoms of illness.

**Section 12. State Mandated Quarantine.** Persons arriving at Dillingham whose air transportation originated outside Alaska shall comply with the State ordered quarantine issued by Governor Dunleavy on March 23, 2020.

**Section 13. Court Hearing.** Any individuals in the Quarantine Group may request a court hearing to challenge the limitations imposed by this order within forty-eight hours after their arrival in Dillingham using procedures set forth in AS 18.15.385(f), (g) and (h) incorporated herein by reference.

**Section 14. Enforcement.** Violations of this Emergency Ordinance shall be a Minor Offense. In accordance with AS 29.25.070(a), citations for violation of this ordinance may be disposed of as provided in AS 12.25.195 through 12.25.230, without a court appearance, upon payment of a one-thousand dollar (\$1,000) fine, plus the state surcharge required by AS 12.55.039 and 29.25.074. Fines must be paid to the court. The Alaska Court System's Rule of Minor Offense Procedures applies. This fine may not be judicially reduced.

**Section 15. Code Provisions Superseded.** This ordinance supersedes any inconsistent ordinances, rules or regulations of the City of Dillingham including, but not limited to Section 18.20.040 procedures for changing land use districts.

**Section 16. Effective Date.** This ordinance is effective March 27, 2020 at 11:59 p.m. and shall continue in effect until May 1, 2020 unless extended by action of the city council.

PASSED and ADOPTED by a duly constituted quorum of the Dillingham City Council on March 26, 2020.

SEAL:

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Alice Ruby, Mayor

ATTEST:

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Lori Goodell, City Clerk