Ordinance 13-40 Amend City Code for Minor Traffic Offenses and Fine Schedule

Ordinance ID: 13-40
Ordinance Status: Adopted
Ordinance Summary:
An Ordinance of the Homer City Council, Amending HCC 7.04.010, State Statutes Adopted by Reference, HCC 7.04.020, Copies of State Traffic Code on File, HCC 7.04.030, Violation—Penalty, HCC 7.08.010, Compliance with State Law, HCC 7.08.045, Handicapped Parking, HCC 7.08.058, Removal of Impoundment Notice, and HCC 10.04.110, Violation—Penalty; and Repealing HCC 7.04.023, State Schedule of Minor Traffic Offenses and Bail Forfeiture—Adopted, HCC 7.04.025, State Schedule of Minor Traffic Offenses and Bail Forfeiture--Conflict with General Penalty, HCC 7.06.100, Penalty and Fine Schedule, HCC 7.08.060, Violation—Penalty, HCC 7.20.010, Compliance with State Law, HCC 7.20.080, Violation—Penalty, HCC Chapter 24, Traffic Violation Mandatory Sentences, and HCC 7.28.060, Violation; Penalty; to Establish a Consolidated Traffic Fine Schedule. City Clerk.

CITY OF HOMER
HOMER, ALASKA
City Clerk
ORDINANCE 13-40

AN ORDINANCE OF THE HOMER CITY COUNCIL, AMENDING HCC 7.04.010, STATE STATUTES ADOPTED BY REFERENCE, HCC 7.04.020, COPIES OF STATE TRAFFIC CODE ON FILE, HCC 7.04.030, VIOLATION—PENALTY, HCC 7.08.010, COMPLIANCE WITH STATE LAW, HCC 7.08.045, HANDICAPPED PARKING, HCC 7.08.058, REMOVAL OF IMPOUNDMENT NOTICE, HCC 7.08.060, VIOLATION—PENALTY, HCC 7.28.060, VIOLATION; PENALTY, AND HCC 10.04.110, VIOLATION—PENALTY; AND REPEALING HCC 7.04.023, STATE SCHEDULE OF MINOR TRAFFIC OFFENSES AND BAIL FORFEITURE—ADOPTED, HCC 7.04.025, STATE SCHEDULE OF MINOR TRAFFIC OFFENSES AND BAIL FORFEITURE—CONFLICT WITH GENERAL PENALTY, HCC 7.06.100, PENALTY AND FINE SCHEDULE, HCC 7.20.010, COMPLIANCE WITH STATE LAW, HCC 7.20.080, VIOLATION—PENALTY, AND HCC CHAPTER 24, TRAFFIC VIOLATION MANDATORY SENTENCES; TO REVISE AND UPDATE CITY VEHICLE AND TRAFFIC REGULATIONS AND ESTABLISH A CONSOLIDATED TRAFFIC FINE SCHEDULE.

THE CITY OF HOMER HEREBY ORDAINS:

Section 1. HCC 7.04.010, State statutes adopted by reference, is amended to read as follows:

7.04.010 State statutes adopted by reference. Pursuant to AS 28.01.010, the city adopts by reference the following state statutes and regulations:
13 AAC 02.005 through 13 AAC 02.560, inclusive (motor vehicle and driving offenses: rules of the road);
13 AAC 04.001 through 13 AAC 04.420, inclusive (motor vehicle and driving offenses: vehicle equipment and inspection);
13 AAC 40.010 (definitions);
AS 28.05.095 (use of seat belts and child safety devices required);
AS 28.10.451 (failure to register vehicle);
AS 28.10.461 (driving vehicle without evidence of registration);
AS 28.10.471 (driving vehicle when registration suspended, revoked or permit expired);
AS 28.11 (abandoned vehicles);
AS 28.15.131 (license to be carried and exhibited on demand);
AS 28.22.019 (proof of insurance to be carried and exhibited on demand);
AS 28.35.235 (unauthorized use of parking reserved for persons with disabilities);
AS 28.39.010 (snowmobile registration);
AS 28.39.040 (display of snowmobile registration);
AS 28.90.990 (definitions).
All laws of the State of Alaska and any rule or regulation adopted by any duly authorized agency of the State of Alaska pertaining to motor vehicles, their licensing, safety measures, rules of the road, and any and all other rules

and regulations pertaining to motor vehicles are incorporated into this chapter and made a part of this chapter by reference and the violation of any such law, rule or regulation shall constitute an offense under this Code.

Section 2. HCC 7.04.020, Copies of State Traffic Code on file, is amended to read as follows:

7.04.020 Copies of title State Traffic Code on file. A copy of this title, including all state statutes and regulations incorporated herein, Title 13 AAC, the State Traffic Code, shall be incorporated in a manual placed in City Hall and be available for inspection by the general public at city hall during business hours, and copies shall be available for purchase by the public at cost for perusal by interested persons.

Section 3. HCC 7.04.023, State schedule of minor traffic offenses and bail forfeiture—Adopted, and HCC 7.04.025, State schedule of minor traffic offenses and bail forfeiture--Conflict with general penalty, are repealed.

Section 4. HCC 7.04.030, Violation—Penalty, is amended to read as follows:

7.04.030 Traffic fine schedules Violation--Penalty. a. For violations of statutes and regulations listed in HCC 7.04.010, the city adopts as its traffic fine schedule the schedule of minor traffic offenses and bail forfeiture amounts contained in Rule 43.1 of the Alaska Rules of Administration.
b. For violations of provisions of this title other than statutes and regulations listed in HCC 7.04.010, the city adopts the following traffic fine schedule:

Code Section Code Section Title Fine per Day
7.06.010(b) Muffler not working properly Corr/$500
7.06.010(c) Muffler modified/excessive noise Corr/$500
7.06.010(d) Muffler removed or inoperative Corr/$500
7.06.010(e)(1) or (e)(2) Noise exceeds limits first violation $100;
second violation within 6 months of first conviction $200;
third violation within 6 months of any prior conviction $300
7.06.010(e)(3) Sale of vehicle exceeding noise limits first violation $100;
second violation within 6 months of first conviction $200;
third violation within 6 months of any prior conviction $300
7.06.020 Jake brake use prohibited First violation $100
Second violation within 6 months of first conviction $200 plus proof of satisfactory Homer PD commercial vehicle inspection
Third violation within 6 months of any prior conviction $300 plus proof of satisfactory Homer PD commercial vehicle inspection
7.08.020 Stopping or parking—Where prohibited $25.00
7.08.021 Starting parked vehicles $100.00
7.08.030 Stopping or parking—Size limitation $25.00
7.08.040 Stopping or parking—Time limitation $25.00
7.08.045 Unauthorized use of parking reserved for persons with disabilities first violation $125;
second violation $250
7.08.045 Unauthorized use of parking reserved for persons with disabilities while displaying special license plate or permit first violation $250;
second violation $500
7.08.058 Removal of impoundment notice or impounded vehicle prohibited $300.00
7.20.030 Use of snowmachines $300.00
7.20.040 Time restriction $300.00
7.20.050 Driver's license requirement $300.00
7.20.055 Operation in designated areas $300.00
7.20.060 Towing $300.00
7.28.020 Motor vehicle parking $30.00
7.28.030 Short-term parking area $30.00
7.28.040 Limited long-term parking area $30.00
7.28.050 Reserved parking $30.00
10.04.100(b) Restricted parking in harbor $25.00

A citation for an offense listed as "Corr" must be dismissed (or voided) if proof of correction is presented to a Homer police department vehicle inspector within 30 days. If the required repair is not made and shown to a vehicle

inspector within the specified time, the offense may be disposed of without court appearance as provided in (c) of this section.
c. A person cited for an offense for which a fine is established in subsection (a) or (b) of this section may mail or personally deliver to the Finance Director the amount of the fine indicated on the citation for the offense plus any surcharge required to be imposed by AS 12.55.039 and AS 29.25.074, together with a copy of the citation signed by the person indicating the person's waiver of court appearance, entry of plea of no contest, and forfeiture of the fine. A citation for a scheduled offense may be mailed or personally delivered within fifteen (15) days after the date of the citation. The payment of a fine under this subsection shall be treated as a judgment of conviction. The fine paid is complete satisfaction for the offense. If a person cited for an offense for which a fine amount is established in subsection (a) or (b) of this section appears in court to contest the citation and is found guilty, the maximum sentence which may be imposed is the scheduled fine amount plus any surcharge required to be imposed by AS 12.55.039 and AS 29.25.074.
The violation of any provision contained in this chapter shall be punished under Section 1.16.010.

Section 5. HCC 7.06.100, Penalty and fine schedule, is repealed.

Section 6. HCC 7.08.045, Handicapped parking, is amended to read as follows:

7.08.045 Unauthorized use of parking reserved for persons with disabilities Handicapped parking. a. A person may not park or cause to be parked a motor vehicle in a parking space reserved for a person with a disability disabled or medically handicapped persons, whether such parking space is on public or private property, unless:
1. the person operating the vehicle has a special permit issued by the State of Alaska under AS 28.10.495;
2. the person operating the vehicle has parked the vehicle for the purpose of transporting a person who as a special permit issued by the State of Alaska under AS 28.10.495 and the person who has the special permit actually exits or enters the vehicle;
3. the motor vehicle displays a special license plate issued to a person with a disability disabled or handicapped persons under AS 28.10.181(d) and is operated by or used for the purpose of transporting a person with a disability; or
43. the motor vehicle displays a special license plate or permit issued to persons with disabilities disabled or handicapped persons by another state, province, territory, or country and is operated by or used for the purpose of transporting a person with a disability.
b. Any police officer or parking enforcement officer may enforce this section within any public or private parking area by issuing a citation pursuant to subsection (d) of this section, or within any public parking area by causing the vehicle parked in violation of this section to be immediately removed as provided by HCC 7.08.050. Only a person who owns or controls a private parking area containing a parking space reserved for a person with a disability reserved handicapped-only parking space may cause the vehicle parked in violation of this section to be removed and towed as provided in HCC 7.08.050.
c. For purposes of this section, a "parking space reserved for a person with a disability handicapped parking only" is a parking space conspicuously signed as being reserved for restricted to vehicles displaying a special permit or special license plate described in (a) of this section handicapped parking permits, provided that such signs shall, as far as practicable, conform to the current edition of the Alaska Traffic Manual on Uniform Traffic Control Devices prepared by the Alaska Department of Transportation and Public Facilities. Notice of the specific penalty for violating this section shall be posted on the face of all signs erected within the City.
d. The penalty for violating this section shall be one hundred dollars for each citation issued.
e. The officer responding to an apparent violation may excuse a violation of subsection a. of this section if the officer finds that the person who parked, or caused to be parked, in a reserved handicapped parking spot is actually or recently handicapped or is a handicapped visitor of outside the City.

Section 7. HCC 7.08.058, Removal of Impoundment Notice of Impounded Vehicle Prohibited, is amended to read as follows:

7.08.058 Removal of Impoundment Notice or of Impounded Vehicle Prohibited. a. Unless authorized by a police officer or peace officer with authority to enforce parking laws and regulations, it is unlawful for any person to remove an impoundment order from a vehicle upon which it has been posted.
b. Unless authorized by a police officer or peace officer with authority to enforce parking laws and regulations, it is unlawful for any person to move a vehicle after it has been posted with an impoundment order.
c. A violation of this section shall be punished pursuant to section 1.16.010 of this code.

Section 8. HCC 7.08.060, Violation—penalty, is amended to read as follows:

7.08.060 Citation Violation—penalty. A police officer may issue a citation for a vehicle parked, stopped or standing in violation of this chapter, and deliver it to the operator of the vehicle or affix it to the vehicle if the vehicle is unattended at the time of issuance. Unless another penalty is expressly provided, the penalty for violating provisions of this chapter are the same as those listed in the State of Alaska Traffic Bail Forfeiture Schedule pursuant to Rule 43.1 of the Administrative Rules of the Alaska Rules of Court for violation of 13 AAC 02.340 through 13.AAC 02.337.

Section 9. HCC 7.20.010, Compliance with state law, is repealed.

Section 10. HCC 7.20.080, Violation—penalty, is repealed.

Section 11. HCC Chapter 24, Traffic Violation Mandatory Sentences, is repealed.

Section 12. HCC 7.28.060, Violation; Penalty, is amended to read as follows:

7.28.060 Citation Violation; Penalty. A police officer may issue a citation for a vehicle parked, stopped or standing in violation of this chapter, and deliver it to the operator of the vehicle or affix it to the vehicle if the vehicle is unattended at the time of issuance. Any violation of this chapter is unlawful and shall be punished under city code 1.16.010.

Section 13. HCC 10.04.110, Violation—Penalty is amended to read as follows:

10.04.110 Violation—Penalty. a. Except as provided in HCC 7.04.030 (b) of this section, any violation of the provisions contained in this title or regulations adopted pursuant to this title shall be unlawful and punishable as provided in Section 1.16.010 of this Code.
b. A violation of HCC 10.04.100(b) is amenable to disposition without court appearance upon payment of a fine in the amount of $25.00. The person cited for the violation may mail or personally deliver to the City Finance Department the amount of the fine plus any surcharge required to be imposed by AS 29.25.074, together with a copy of the citation signed by the person indicating the person's waiver of court appearance, entry of plea of no contest, and forfeiture of the fine. The payment of a fine under this subsection shall be treated as a judgment of conviction. The fine paid is complete satisfaction for the offense. If a person cited for a violation of HCC 10.04.100(b) appears in court to contest the citation and is found guilty, the maximum sentence which may be imposed is the scheduled fine amount plus any surcharge required to be imposed by AS 29.25.074.

Section 14. This Ordinance is of a permanent and general character and shall be included in the City Code.

ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, this _____ day of _____ 2013.

CITY OF HOMER

_____
MARY E. WYTHE, MAYOR

ATTEST:

_____
JO JOHNSON, MMC, CITY CLERK

AYES:
NOES:
ABSTAIN:
ABSENT:

First Reading:
Public Reading:
Second Reading:
Effective Date:

Reviewed and approved as to form:

Walt Wrede, City Manager City Attorney

Date: _____ Date: _____

Ordinance Dates**Ordinance Introduction Date:** Mon Oct 14th, 2013
Ordinance Public Hearing Date: Mon Oct 28th, 2013
Ordinance Second Reading Date: Mon Oct 28th, 2013
Ordinance Effective Date: Tue Oct 29th, 2013

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