# **Chapter 7.08 Stopping or Parking**

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#### 7.08.010 Intent.

It is the intent of this chapter to regulate vehicular stopping or parking in certain areas where officially posted. (Ord. 80-17 (part), 1980: prior code 12-700.1).

### 7.08.020 Stopping or parking--Where prohibited.

- a. A person may not stop or park a vehicle in a place or area where an official sign or traffic control device prohibits stopping or parking of a vehicle.
- b. No parking shall be permitted on a City arterial, as defined in Section 7.12.005 (a).
- c. A person may not park or stop a vehicle along or abutting a City arterial in such manner as to require egress by means of backing onto the arterial. (Ord. 84-6 §1, 1984: Ord. 80-17 (part), 1980: prior code 12.700.2).

## 7.08.021 Starting parked vehicles.

a. A person may not move onto roadway, a vehicle which is stopped, standing or parked until the movement can be made with reasonable safety.(Ord. 99-7, 1999; Ord. 83-12 §1, 1983).

### 7.08.030 Stopping or parking--Size limitation.

- a. A person may not stop or park a vehicle or a combination of vehicles in excess of twenty feet in length in those areas where a sign prohibits parking of vehicles or a combination of vehicles in excess of twenty feet.
- b. A person may not stop or park a vehicle or a combination of vehicles in excess of forty feet in length in those areas where a sign prohibits parking of vehicles or a combination of vehicles in excess of forty feet. (Ord. 80-17 (part), 1980: prior code 12-700.3).

# 7.08.040 Stopping or parking--Time limitation.

Where an official sign specifies a maximum time a vehicle may be parked in a specified area, it shall be unlawful to leave a vehicle parked in that area longer than the time specified. (Ord. 80-17 (part), 1980: prior code 12-700.4).

## 7.08.045 Handicapped parking.

- a. A person may not park or cause to be parked a motor vehicle in a parking space reserved for disabled or medically handicapped persons, whether such parking space is on public or private property, unless:
- 1. the person has a special permit issued by the State of Alaska under AS 28.10.495;
- 2. the motor vehicle displays a special license plate issued to disabled or handicapped persons under AS 28.10.181(d); or
- 3. the motor vehicle displays a special license plate or permit issued to disabled or handicapped persons by another state, province, territory, or country.
- 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 to be immediately removed as provided by 7.08.050. Only a person who owns or controls a private parking

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area containing a reserved handicapped-only parking space may cause the vehicle parked in violation of this section to be removed and towed as provided in 7.08.050.

- c. For purposes of this section, a "parking space reserved for handicapped parking only" is a parking space conspicuously signed as being restricted to vehicles displaying handicapped parking permits, provided that such signs shall, as far as practicable, conform to the current edition of the Alaska Traffic Manual 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. (Ord. 91-14 §1, 1991; Ord. 87-27(A), 1987.)

#### 7.08.050 Vehicles subject to impound.

A police officer or authorized peace officer as defined in AS 11.81.900(B)(38), may impound and remove a vehicle which is found to be in violation of the provisions of this chapter. The owner of record of an impounded vehicle is responsible for all costs incurred for impounding, removing and storing the vehicle. (Ord. 94-10(S) §1, 1994: Ord. 80-17 (part), 1980: prior code 12.700.5).

## 7.08.051 Impound Procedure.

- a. Unless otherwise provided, the procedure set forth in sections 7.08.051-.053 shall apply whenever a motor vehicle is subject to impoundment (including booting) and removal pursuant to motor vehicle, traffic or parking codes or laws, including without limitation unlawful stopping, standing, or parking under any provisions of the city code or regulations adopted thereunder.
- b. An impoundment is effective when a written order of impoundment is placed on a vehicle. An order of impoundment shall identify the vehicle, state the reasons for impoundment, and be dated and signed by a police officer or an authorized peace officer. An impounded vehicle may be immediately towed and removed to a safe place upon the order of a police officer or peace officer.
- c. Upon impoundment, a notice of procedure options shall be placed on the vehicle, and within 6 hours a copy shall be personally delivered or placed in the U.S. mail addressed to the owner of the vehicle. The notice shall state substantially as follows:

ATTENTION: Your vehicle has been impounded by the City of Homer. As the owner of an impounded vehicle, you have the following options:

- (A) You may recover possession of the vehicle by paying to the person having custody of the vehicle the towing and storage fees that may have accrued.
- (B) If you take issue with the impoundment of your vehicle, you may:
- (i) Recover possession of the vehicle by paying the towing and storage fees that have accrued to such person and claim a refund by filing a demand (on a form provided by the city) for an administrative hearing before a hearing officer as to whether there was a sufficient factual and legal basis for impounding your vehicle; or
- (ii) Demand (on a form provided by the city) an administrative hearing before a hearing officer as to whether there was a sufficient factual and legal basis for impounding your vehicle.

To be entitled to such a hearing, your written demand must be filed with the City Clerk (a) within 5 workdays after you learned that your vehicle was impounded or was missing; or (b) within 15 workdays after the city mailed notice to the vehicles' registered owner that the vehicle had been impounded; whichever occurs first. If you fail to make a timely request for a hearing you will lose all right to challenge the sufficiency of the basis for impoundment. If timely requested, the hearing must be held within 48 hours after the filing of your written demand, not including Saturdays, Sundays, and city holidays. A determination that there was an insufficient factual or legal basis for impounding your vehicle will require the release of the vehicle to you without your having to pay the towing and storage fees, or will entitle you to a refund if you have already paid the fees.

A hearing may be demanded by filing the appropriate form with the City Clerk at 491 E. Pioneer Avenue, Homer between 8:00 a.m. and 5:00 p.m. on any day other than Saturday, Sunday and city holidays. (Ord. 94-10(S), §2, 1994).

# 7.08.052 Impoundment Hearing.

a. If demand is timely made, the owner or the person entitled to possession of a vehicle is entitled to an administrative hearing to determine whether there was a sufficient factual legal basis for impoundment of the vehicle. To be entitled to such a hearing a written demand must be filed with the City Clerk (a) within 5 workdays after the owner or person entitled to possession learned that the vehicle was impounded or was missing; or (b) within 15 workdays after the city delivered or mailed the notice required by section 7.08.051 (c) to the vehicle's

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owner; whichever comes first. If no timely request for a hearing is made, the factual and legal basis for impoundment will be conclusively deemed sufficient for all purposes.

- b. The hearing will be held within 48 hours after the filing of a written demand, not including Saturdays, Sundays, and city holidays.
- c. The hearing officer shall not be bound by formal rules of evidence. A copy of the fully completed and signed order of impoundment will constitute prima facie proof of sufficient factual and legal basis for impoundment. The burden will be on the vehicle owner to prove by a preponderance of the evidence that there was an insufficient factual or legal basis for impounding the vehicle.
- d. A determination by the hearing officer that there was an insufficient factual or legal basis for impounding the vehicle will require the release of the vehicle to the owner or other person entitled to possession without payment of the towing and storage fees, or will entitle the person to a refund if the fees have already been paid.
- e. The city will be responsible for payment or refund of the towing and storage fees for any vehicle impounded upon order of a city police officer or city peace officer if the hearing officer determines that there was an insufficient factual or legal basis for such impound. (Ord. 94-10(S), §3, 1994).

#### 7.08.053 Form of Demand for Hearing--Hearing Officer.

- a. The City Clerk shall prepare and make available a form of demand for a hearing pursuant to section 7.08.052. Upon receipt of demand for a hearing the City Clerk shall immediately forward the demand to the City Manager or his designee, who shall schedule an administrative hearing and notify all parties.
- b. The City Manager shall appoint one or more persons who shall serve as hearing officers to conduct hearings pursuant to section 7.08.052. No police officer or peace officer with authority to impound an improperly parked vehicle shall be eligible to serve as hearing officer. (Ord. 94-10(S), §4, 1994).

#### 7.08.058 Removal of Impoundment Notice 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. (Ord. 94-10(S), §5, 1994).

#### 7.08.060 Violation--Penalty.

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. (Ord. 91-14 2, 1991; Ord. 80-17 (part), 1980; prior code 12-700.6).

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