

CITY OF HOMER

HOMER, ALASKA

ORDINANCE 83-2

AN ORDINANCE REPEALING CHAPTER 8.08, "PEDDLER'S PERMIT" OF THE HOMER MUNICIPAL CODE AND ENACTING A NEW CHAPTER PROVIDING FOR THE LICENSING OF ITINERANT AND TRANSIENT MERCHANTS.

THE CITY OF HOMER ORDAINS:

Section 1. Chapter 8.08 of the Homer Municipal Code is hereby repealed in its entirety and a new chapter is hereby enacted to read:

Chapter 8.08

ITINERANT OR TRANSIENT
MERCHANT'S LICENSE.

Sections:

- 8.08.010 Definitions.
- 8.08.020 Itinerant or transient merchant--license required; exemptions.
- 8.08.030 Itinerant or transient merchant license--application.
- 8.08.040 Referral; fees.
- 8.08.050 License-revocation.
- 8.08-060 License-expiration.
- 8.08.070 License nontransferable.
- 8.08.080 Exhibition of license.
- 8.08.090 Shouting and use of loudspeakers.
- 8.08.100 Use of streets and other public places.
- 8.08-110 Report of convictions for chapter violations.
- 8.08-120 Appeals from action of Chief of Police.
- 8.08.140 State laws applicable.
- 8.08.150 Violation-penalty.

8.08.010 Definitions.

For the purposes of this chapter the following shall mean:

(a) "Transient or itinerant merchant" means any person, firm or corporation, whether as owner, agent, consignee or employee, whether a resident of the municipality or not, who engages in a temporary business of selling and delivering goods, and/or services, wares and merchandise within the City of Homer, and who, in furtherance of such purpose, peddles from door to door or hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad car, boat, any room in a hotel, lodging house, apartment, shop, or any street, alley, or other place within the municipality, for the exhibition and sale of such goods, wares and merchandise, and/or the performance of services, either privately or publicly. The person, firm, or corporation so engaged shall not be relieved from complying with the provisions of this chapter merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer.

(b) "Temporary business" is a business or enterprise that is to be carried on for a period of less than 150 days duration within the City of Homer.

8.08.020 Itinerant or transient merchant--license required; exemptions.

It is unlawful for a transient or itinerant merchant, as defined in Section 8.08.010, to engage in business with the City of Homer without first obtaining a license therefor in compliance with the provisions of this chapter. The licensing requirements of this chapter do not extend to isolated or casual sales of personal goods, wares, vehicle, animals, etc., or to the sale of similar items at such functions as garage sales, flea markets, and bazaars. A commercial fisherman, who has a valid commercial fishing license issued by the State of Alaska and who has completed and filed with Alaska Department of Fish and Game the forms required to qualify as a "catcher-seller" shall be exempt from this chapter.

8.08.030 Itinerant or transient merchant license-application.

Applicants for an itinerant or transient merchant license, whether a person, firm, or corporation, shall file a written, sworn application signed by the applicant, if an individual, by all partners, if a partnership, and by the president, if a corporation, with the City Clerk, on a form to be furnished by the City Clerk, which shall give the following information:

- (a) Name and description of the applicant;
- (b) Address, both legal and local;
- (c) A brief description of the nature of the business and the goods to be sold and in the case of products of farm or orchard, whether produced or grown by applicant;
- (d) If employed, the name and address of the employer, together with credentials establishing the exact relationship;
- (e) The length of time for which the right to do business is desired;
- (f) If a vehicle is to be used, a description of the same, together with the license number or other means of identification;

(g) A photograph of the applicant, taken within sixty days immediately prior to the date of the filing of the application, showing the head and shoulders of the applicant in a clear and distinguishing manner;

(h) The fingerprints of the applicant and the names of at least two reliable property owners of the City, who will certify as to the applicant's good character and business responsibility, or, in lieu of the names and references, any other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility;

(i) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor;

(j) A copy of applicant's business license and his certificate of registration for collection of Kenai Peninsula Borough sales tax, and when applicable a health certificate, letter of approval or other appropriate notification from state authorities for a food vending business;

(k) At the time of filing the application, a fee of ten dollars shall be paid to cover the cost of investigation. (Ord. 80-7 \$1, 1980; prior code \$23-200.2).

8.08.040 Referral; fees.

(a) Upon receipt of the application described in Section 8.12.030, the original shall be referred to the Chief of Police who shall cause an investigation of the applicant's business responsibility and moral character to be made.

(b) The Chief of Police shall find that an applicant's background is unsatisfactory if:

(1) The applicant has been convicted of a felony within the three-year period immediately preceding the date of his application;

(2) The applicant has been convicted of a misdemeanor or violation of a municipal ordinance involving a monetary consideration within the same three-year period;

(3) The applicant does not have proper business licenses, certificate of registration for collection of sales tax or health certificate when applicable.

(c) If, as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application his disapproval and his reasons for the same and shall notify the applicant that his application is disapproved and that no permit and license will be issued.

(d) If, as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police shall endorse on the application his approval. The City Clerk shall, upon payment of the prescribed fee, deliver to the applicant his license.

Such license shall contain the signature and seal of the issuing officer and shall show the name, address and photograph of the licensee, the class of license issued and the kind of goods to be sold thereunder, the amount of fee paid, the date of issuance and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle used in the business. The City Clerk shall keep a permanent record of all licenses issued.

(e) For each license issued hereunder, the fee shall be SEVENTY-FIVE Dollars (\$ 75.00) per license. For each assistant or sublicense associated with the principal license the fee shall be ten dollars each. (Ord. 80-7 §2, 1980; prior code §23-200.3).

8.08.050 License-revocation.

(a) Licenses issued under the provisions of this chapter may be revoked by the Chief of Police subject to appeal under Section 8.08.120 for any of the following causes:

(1) Fraud, misrepresentation or false statement contained in the application for license;

(2) Fraud, misrepresentation or false statement made in the course of carrying on his business as peddler;

(3) Any violation of this chapter;

(4) Conviction of any crime or misdemeanor involving moral turpitude;

(5) Conducting business hereunder in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

8.08.060 License-expiration.

All licenses issued under the provisions of this chapter shall expire 150 days following date of issue. (Prior code §23-200.5).

8.08.070 License nontransferable.

No license issued under the provision of this chapter shall be used at any time by any person other than the one to whom it was issued. (Prior code §23-200.7).

8.08.080 Exhibition of license.

Persons licensed under this chapter shall exhibit their licenses at the request of any citizen. (Prior code §23-200.6).

8.08.090 Shouting and use of loudspeakers.

No merchant licensed hereunder nor any person in his behalf, shall shout, make any cryout, blow a horn, ring a bell or use any sound device, including any loudspeaking radio or sound-amplifying system upon any of the roads, streets, alleys, parks or other public places of the City or upon any private premises in the City, where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the roads, streets, avenues, alleys, parks or other public places for the purpose of attracting attention

to any goods, wares, or merchandise which such licensee proposes to sell. (Prior code §23-200.9).

8.08.100 Use of streets and other public places.

No licensee shall have exclusive right to any location in the public streets, nor shall anyone be permitted a stationary location, nor shall he be permitted to operate in any congested area, to include areas designated as public campgrounds, parks, or open spaces, where his operations might impede or inconvenience the public. For the purpose of this chapter, the judgment of any peace officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced. (Ord. 80-7 §3, 1980: Prior code §23-200.10).

8.08-110 Report of convictions for chapter violations.

The Chief of Police shall report to the City Clerk all convictions for violation of this chapter and the City Clerk and Chief of Police shall maintain a record of each license issued and record the reports of violations therein. (Prior code §23-200.12).

8.08.120 Appeals from action of Chief of Police.

Any person aggrieved by the action of the Chief of Police in the denial of an application for a permit or license as provided in Section 8.08.040, or in the decisions with reference to the revocation of license as provided in Section 8.08.050, shall have the right of appeal to the City Council. Such appeal shall be taken by filing with the City Council, within fourteen days after the action of the Chief of Police, a written statement setting forth fully the grounds for the appeal. The City Council shall set a time and place for a hearing on such appeal, and notice of such hearing shall be mailed to the appellant postage prepaid at his last known address at least five days prior to the date set for the hearing. The decision and order of the City Council on such appeal shall be final and conclusive. (Prior code §23-200.13).

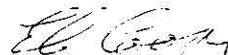
8.08.140 State laws applicable.

Notwithstanding any provisions of this chapter, any peddler operating under any license issued by the City pursuant to this chapter shall not be exempted from any and all licenses, permits, laws, or ordinances as required by the State of Alaska and the Kenai Peninsula Borough. (Ord 80-7 §4, 1980: Prior code §23-200.14).

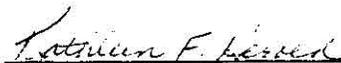
8.08.150 Violation-Penalty.

The violation of any provision contained in this chapter shall be punished under Section 1.16.010 of the Homer Municipal Code.

CITY OF HOMER


ERLE COOPER, MAYOR

ATTEST:


Kathleen Herold, City Clerk

First Reading 1/10/83

Public Hearing 1/29/83

Second Reading 1/29/83

Effective Date 1/25/83