

CITY OF HOMER
HOMER, ALASKA

Ordinance 85-5

AN ORDINANCE REPEALING CHAPTER 8.12, HOMER CITY
CODE, GOVERNING VEHICLES FOR HIRE AND RE-ENACTING
CHAPTER 8.12, GOVERNING PUBLIC TRANSPORTATION
AND NAMING AN EFFECTIVE DATE.

*Defeated
3/25/85
Request for a
re-write
to be re-enacted*

WHEREAS, the Homer City Council has carefully reviewed Homer City Code, Chapter 8.12, governing public transportation;

WHEREAS, there are increasing numbers of new applications for public transportation authorizations within the City of Homer;

WHEREAS, the existing ordinance is inadequate and antiquated for processing these requests and applications;

NOW THEREFORE, the City of Homer ordains:

Section 1, Chapter 8.12, Vehicles for Hire is hereby repealed and re-enacted with the following chapter:

Chapter 8.12
Public Transportation

Sections:

- 8.12.010 Definitions
- 8.12.020 Public Transportation Certificate - Required
- 8.12.030 Public Transportation Certificate - Term
- 8.12.040 Public Transportation Certificate - Fee
- 8.12.050 Public Transportation Certificate - Application
- 8.12.060 Public Transportation Certificate - Application Fee
- 8.12.070 Public Transportation Certificate - Public Hearing
- 8.12.080 Public Transportation Certificate - Public Hearing Notice
- 8.12.090 Public Transportation Certificate - Number of Certificates and Vehicles for Hire to be Allowed Within the City
- 8.12.100 Public Transportation Certificate - New
- 8.12.110 Public Transportation Certificate - Renewal
- 8.12.120 Public Transportation Certificate - Prerequisite Requirements to Issuance
- 8.12.130 Public Transportation Certificate - Transferability
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- 8.12.150 Public Transportation Certificate - Suspension/Revocation
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8.12.310 Chauffeur's License - Required
8.12.320 Chauffeur's License - Application, Requirements, Fees
8.12.330 Chauffeur's License - Issuance, Term, Fees
8.12.340 Chauffeur's License - Suspension/Revocation
8.12.410 State School Bus Operations - Exemptions
8.12.510 Public Transportation - Appeals
8.12.520 Public Transportation - Appeals Procedure
8.12.530 Public Transportation - Appeals Notification

8.12.600 Purging of Criminal Record
8.12.700 Operation of Public Transportation - Vehicles Other than
Motorized
8.12.800 Effective Date

8.12.010 Definitions

Unless otherwise expressly stated, wherever used in this chapter, the following words and phrases shall have the meaning given to them by this section:

- a. Public Transportation Certificate (PTC) means documented authority granted by the Homer City Council to operate a public transportation vehicle within the city limits of the City of Homer.
- b. Vehicle Inspection Permit is the documented authority to operate a specific vehicle for public transportation within the City of Homer.
- c. Chauffeur's License means a written authorization granted to an individual driver permitting such person to drive or operate a public transportation vehicle within the City of Homer.
- d. City unless otherwise specifically designated, means the City of Homer.
- e. Operator means and includes any person owning or having control of the use and/or driving one or more Public Transportation vehicles upon the City streets or engaged in such business.
- f. Public Transportation Certificate classification "taxi-cab" means any motor vehicle having a manufacturer's rated seating capacity of nine passengers or less engaged in the carrying of persons in exchange for receiving fares, not operated over a fixed route, whether the same be operated from a street stand or subject to calls from a central location or otherwise operated for hire to perform public transportation.
- g. Public Transportation Certificate classification "limousine" means any motorized multi-passenger vehicle engaged in the carrying of persons in exchange for receiving fixed route fare/fees.
- h. Public Transportation Certificate classification "sightseeing" means any multi-passenger vehicle engaged in the carrying of persons in exchange for fixed route fare/fees, operating over a route designed for visiting specific places and things of interest, for pleasure and education.
- i. Public Transportation Certification classification "other" means and includes any vehicle not fitting within the definition of taxi-cab, limousine, sightseeing classification for Public Transportation Certificate.

8.12.020 Public Transportation Certificate - Required

- a. A Public Transportation Certificate issued by the City of Homer shall be required to operate or cause to be operated upon the streets of the City any public transportation mode ostensibly engaged in the business of transporting passengers. Public Transportation Certificates shall be issued annually for a period no greater than one full year.
- b. It shall be unlawful for any operator authorized by any authority other than the City to pick-up passengers within the city limits.

Exception: Inter-city transit systems shall be permitted to pick-up and discharge passengers on an inter-city point to point basis only.

8.12.030 Public Transportation Certificate - Term

Certificates issued under this authority shall be valid from July 1st of one year until June 30th of the following year. All certificates issued after July 1st shall be valid from the date of issue until June 30th of the year following date of issuance.

8.12.040 Public Transportation Certificate - Fee

The fee for a Public Transportation Certificate shall be \$100 minimum or \$25 per authorized vehicle in operation for each classification granted. The fee shall be prorated on a monthly basis for certificates issued for less than one year.

8.12.050 Public Transportation Certificate - Application

- a. All applications for Public Transportation Certificate shall be submitted to the City Clerk. Applications are limited to one per person, corporation, association or partnership per classification. Applications shall contain but not be limited to the following information:
 1. Application date
 2. Classification of Public Transportation Certification
A) Taxi-cab B) Limousine C) Sightseeing D) Other
 3. The complete legal name and address of the company to whom the Certificate, if granted, is to be issued.

4. Classification of company under which the applicant intends to do business (sole proprietorship, partnership, association or corporation).
 5. Name(s) and address(es) of the company owner(s). Partnerships, associations and corporations shall list names and addresses of officers. Corporations shall list stockholders holding ten percent or more of shares issued.
 6. Partnerships, associations and corporations shall provide the address of a registered agent of delivery to which all related Public Transportation Certificate notification and documentation shall be served.
 7. The company name under which the Public Transportation Certificate shall be operated.
- b. Along with the application, the following documentation shall be submitted:
1. Individual, company or corporate financial statements prepared by an Alaska certified public accounting firm reporting a minimum of one years business activity unless the applicant has been in business for a period shorter than the one year and then the reporting period shall be for the period of time the firm has been established.
 2. Partnership, association or corporation applications shall include a certifying statement of the secretary that the individual signing the application is so authorized.
 3. Insurance carrier documentation that the individual, partnership, association or corporation are insurable under the provisions of this chapter.
 4. Documentation of an existing Alaska state business license if germane to the application for Public Transportation Certificate.
 5. Documentary evidence that a need exists for additional Public Transportation Certificates to be issued within the City of Homer for the classification requested.

8.12.060 Public Transportation Certification Application - Fee

A \$50 non-refundable application fee shall be submitted with the application.

8.12.070 Public Transportation Certificate - Public Hearing

Applications meeting minimum requirements will be considered at public hearing within 60 days of receipt of the application provided the application is determined by the Clerk to be adequate. Application deficiencies may be cured by submittal of supplemental material and when determined sufficient, shall be set for public hearing.

8.12.080 Public Transportation Certificate - Public Hearing Notice

A public notice shall be published in a newspaper of general circulation within the City no later than two weeks prior to the public hearing. All other holders of public transportation certificates shall be sent notification by certified receipted mailing at the time of publication.

8.12.090 Public Transportation Certificate - Number of Certificates and Vehicles for Hire to be Allowed Within the City

The Homer City Council has the authority to determine the number of PTC's and vehicles for hire to be allowed to operate at any one time, in any one classification, within the City of Homer. The Council shall consider:

- a. Community need and demand for such services as presented through documentary evidence of the applicant.
- b. Written or verbal testimony of existing PTC holders.
- c. Written or verbal testimony of the public at large regarding need or lack thereof for additional services for public transportation within the City.
- d. The ability of the applicant to meet the community and public need.
- e. Any other factors which the Council may deem relevant.

8.12.100 Public Transportation Certificate - New

Upon approval and authorization of the Homer City Council, the City Clerk shall issue a Public Transportation Certificate for a maximum of one year or portion thereof, prorating the term as specified under the section describing "term" and "fee", this chapter. Any modifications, limitations or conditions specified by the City Council in approving the new PTC shall be set forth in a written statement of findings and conclusions attached thereto and made a part of the operating certificate. The applicant shall be entitled to delivery of the same upon payment of the certificate fee; and providing the pre-requisite requirements prior to issuance have been met.

8.12.110 Public Transportation Certificate - Renewal

- a. Annual renewal of any Public Transportation Certificate, under this chapter, in force and in good standing shall be granted automatically upon presentation of proper application and tendering of the fees therefor, unless it can be shown that the holder thereof cannot meet the minimum requirement of this chapter for issuance of such license or permit. The Director of Public Safety shall first review and approve all applications for renewal.
- b. Vehicles shall be annually inspected and approved for operation as a Public Transportation Certified vehicle as provided for under this chapter.
- c. Chauffeur's Licenses shall be current and in accordance with requirements set out in this chapter.

8.12.120 Public Transportation Certificate - Prerequisite Requirements to Issuance

The following additional information or documentation shall be provided to the City Clerk prior to issuance of a new or renewed Public Transportation Certificate:

- a. Dispatch Office - Class A and B licenses (8.12.050 (a) 2) must maintain communication dispatch offices inside the City for all hours public transportation certificated vehicles are in operation. The location of the dispatch office must be filed with the Clerk.
- b. Vehicle Descriptions - Make, model, year, engine or serial number, city vehicle permit number, state license number and registered owner of each vehicle to be operated under the certificate.
- c. Identifying Color Scheme Logos - Description of the identifying color scheme to be applied to the exterior of PTC vehicles and the company logo.
- d. Alaska Business License and Kenai Peninsula Borough Sales Tax Certificates for the year in which the Public Transportation Certificate is being issued.
- e. A copy of current liability and indemnity insurance policies providing coverage and protection against loss through personal injury or property damage arising from negligence on the part of the owner or driver of all vehicles to be operated by virtue of the Public Transportation Certificate; minimum insurance requirement are:

\$ 50,000 - property damage
\$250,000 - public liability per person
\$500,000 - public liability per accident

Each policy shall contain an endorsement providing that the insurer or his local agent will give written notice of cancellation, revocation, termination or expiration of that policy, such notice to be submitted to the City Clerk not later than five days prior to such eventuality.

- f. Documentation that the Public Transportation Certificate holder has secured workman's compensation insurance.
- g. Documentation from the Department of Public Safety that all vehicles authorized to operate under this Certificate have been inspected and issued a current vehicles inspection permit.
- h. Documentation from the Department of Public Safety that all employees hired as operators under this Certificate have received current City of Homer chauffeur's licenses.

8.12.130 Public Transportation Certificate - Transferability

Financial or proprietary interest in a Public Transportation Certificate shall be transferred or assigned by the holder thereof only after receiving the approval of the Homer City Council. The transfer of certificate shall be processed in the same manner as a new PTC application, subject to the same fees, hearing process and approvals. The term "holder" as used herein shall include any individual, corporation, joint venture, association, partnership or other group or entity which owns an interest in a license. Sale or other conveyance of fifty percent or more of the shares of a corporation which is a holder of a certificate license or sale or other conveyance of a fifty percent or greater interest in such a corporation where no stock has been issued shall be deemed a "transfer" requiring approval of the City Council, under this section.

8.12.140 Public Transportation Certificates - Complaints

All complaints regarding operations by Public Transportation Certificate holders, when not settled satisfactorily by the PTC holder, shall be directed to the Director of Public Safety or his designee. The Director may notify the Certificate holder upon receipt of any such complaint.

8.12.150 Public Transportation Certificate - Suspension or Revocation

The Director of Public Safety, after first conducting an Administrative Hearing, is authorized to suspend or permanently revoke a Public Transportation Certificate for any of the following occurrences:

- a. Breach of any provision for issuance of the Public Transportation Certificate including limitations or modifications stated in the findings and conclusions upon issuance of the certificate by the City Council.
- b. Delinquency on the part of the holder of a Public Transportation Certificate, in filing and payment of consumer sales taxes due on fares collected for the transportation of passengers in vehicles operated under the Certificate or personal property business taxes.
- c. Violation of any of the provisions of this chapter pertaining to vehicles inspection or chauffeur's licensing.
- d. Violation by the holder of a Public Transportation Certificate regarding fares charged or regulated by this chapter.
- e. Violation of state law or city ordinance provisions for safe operation of motor vehicles.
- f. Any false statement in the application.
- g. If the Public Transportation Certificate holder, or in case of a corporation or association any officer or manager thereof, has been charged or convicted of a felony or a misdemeanor involving moral turpitude, or the use of or trafficking narcotics or similar drugs.

8.12.160 Public Transportation Certificate - Revocation or Suspension. Administrative Hearing

Before suspending or revoking any Public Transportation Certificate, the Director of Public Safety and the City Manager, shall conduct an administrative hearing into the cause for suspension and/or revocation. Notice shall be given by certified, receipted mailing to the registered agent holders and any party to a complaint, of the intent to revoke or suspend the Public Transportation Certificate, naming the specific cause for such action.

- a. The notice shall precede the hearing by no less than fifteen days and shall include, but is not limited to the following:
 - 1. The nature of violation or complaint causing revocation or suspension action.
 - 2. The date, time and place of the hearing.
 - 3. The procedure by which the Certificate holder may appeal the decision of the Administrative Hearing.

- b. An electronic recording record shall be kept of the hearing which shall be reduced to written minutes. The electronic recording shall be preserved for one year unless required for further appeals. Conclusions shall be documented within a statement of findings drawn by the Director and Manager. Such findings and conclusions shall state fully the terms of suspension or conclusive cause for revocation. Should the Director and Manager be opposed in the findings and conclusions, the matter shall be automatically appealed to the City Council under the provisions for "Appeal" in this chapter.

8.12.070 Public Transportation Certificate - Revocation or Suspension, Appeals

Appeals to decision of the Director of Public Safety shall be as set forth in the appeals section of the Chapter. Administrative action on suspensions or revocations shall be withheld until the appeals proceedings have been concluded.

8.12.180 Rates/Fares

Public Transportation Certificate vehicle rates/fares shall be set as follows:

- a. Taxi-cab rates/fares shall be set by adopted resolution of the Homer City Council based on mileage and zones. Rates/fares to be shared by patrons shall have the consent of the first patron securing the for-hire vehicle.
- b. Limousine rates shall be set by adopted resolution of the Homer City Council based on flat rate from point to point.
- c. Sightseeing rates for sightseeing tours shall be established by the carrier and placed on file with the City Clerk for public inspection.
- d. Public Transportation Certificates bearing the classification "other" shall be established by the carrier and placed on file with the City Clerk for public inspection.

8.12.190 Rates/Fares - Public Notice and Display

All vehicles operating under this chapter shall give public notice of all rates/fares and charges by prominently displaying the schedule of same on the vehicle dash board.

8.12.200 Vehicle Inspection Permit - Required

Vehicles operating under or by virtue of a Public Transportation Permit within the City of Homer shall first have been inspected and assigned a vehicle inspection permit from the Department of

Public Safety. Vehicles shall be inspected annually as provided by this chapter.

8.12.210 Vehicle Inspection Permit - Application

Applications for vehicle inspection shall be made to the Department of Public Safety.

8.12.220 Vehicle Inspection Permit - Vehicle Inspection

Prior to issuance, each vehicle shall be physically examined to determine whether the same is mechanically and physically safe for public transportation operation, properly equipped and appropriately lettered and marked and suitable for public patronage and occupancy. Infant carrying devices shall be available for use as required by Alaska State Motor Vehicle laws.

8.12.230 Vehicle Inspection Permit - Term, Issuance and Fee

When satisfied the vehicle meets the requirements of safe operation for a public transportation, the Director of Public Safety or his designee shall issue a vehicle inspection permit. The permit shall be valid for a one year period or portion thereof, expiring on June 30th. The fee shall be \$25 per vehicle unless the permit is applied for after January 1st; then the fee shall be \$12.50 per vehicle. The permit, which will be a sticker or decal, shall be displayed at all times from the front windshield of the vehicle. Vehicle Inspection Permits are non-transferable from vehicle to vehicle. Replacement of lost vehicle inspection permits may be obtained from the Department of Public Safety for a fee of \$5.

8.12.240 Vehicle Safety Inspection - Intermittent

The Director of Public Safety or his designee, may from time to time, conduct an inspection of any vehicle for which a vehicle permit has been issued for the purpose of ascertaining whether the vehicle conforms to those standards and criteria on which the permit was originally granted.

8.12.250 Vehicle Inspection Permit - Suspension/Revocation

- a. Subsequent to the issuance of a vehicle inspection permit, the Director of Public Safety, may cause and effectuate a temporary suspension of the same by written notice, for failure to comply with any provisions or prerequisites to issuances of a Public Transportation Certificate or Inspection Permit.

- b. A suspended vehicle inspection permit shall be restored immediately upon removal or correction of the cause which brought about the suspension and no fee shall be imposed for such restoration.
- c. Revocation of vehicle inspection permits may occur if the provisions of suspension are not satisfied within the time specified by the Director of Public Safety in the notification of suspension. Revocations caused by mechanical/safety equipment faults shall require a new mechanical inspection and issuance of another vehicle inspection permit. All notifications of suspension shall be posted prominently in the place of business for which a Public Transportation Certificate has been issued.

8.12.310 Chauffeur's License - Required

Anyone operating a Public Transportation vehicle upon the streets of the City of Homer shall first apply for, be issued and thereafter hold in effect a City of Homer Chauffeur's License granted by the Department of Public Safety.

- a. To apply for a chauffeur's license, the applicant shall possess the following qualifications:
 - 1. The applicant shall be nineteen years of age or older.
 - 2. The applicant shall possess a current state driver's license.
 - 3. The applicant shall not have been:
 - a. convicted of a sexual offense;
 - b. convicted of a felony or misdemeanor involving a crime of violence;
 - c. convicted of a felony and imprisoned under such convictions under sentences which were not concurrent;
 - d. convicted of a felony wherein any portion of the sentence imposed thereon existed within five years immediately preceding the application;
 - e. currently charged or awaiting trial or other disposition under any of the foregoing offenses listed in this subsection.
- b. The applicant shall provide documentation that he has, within the last thirty days, undergone a physical examination conducted by a physician. Such physical examination shall meet the requirements set by the Kenai Peninsula Borough for school bus operators.

- c. The applicant shall consent to fingerprinting by the Department of Public Safety.
- d. The applicant shall pay a non-refundable applicant fee of \$10.

8.12.330 Chauffeur's License - Issuance, Term, Fees

Upon satisfactory compliance with the requirements of this Chapter, the Director of Public Safety or his designee, shall issue a chauffeur's license to the applicant. Chauffeur's licenses shall display a current photograph of the applicant and be prominently displayed within the Public Transportation Certified vehicle. Upon receipt of said chauffeur's license, the fee of \$5 shall be tendered. All chauffeur's licenses shall expire on June 30th following the date issued and shall be renewed annually thereafter.

8.12.340 Chauffeur's License - Suspension/Revocation

The Director of Public Safety or his designee may temporarily suspend or permanently revoke a chauffeur's license for any of the following causes subject to Administrative hearing and appeals provisions of this chapter.

1. False or erroneous material statements contained in the licensee's application and which were conducive to the issuance of the license;
2. Failure of the licensee to properly display, in any Public Transportation vehicle permitted under this Chapter, the chauffeur's license containing identifying photograph;
3. Operation within the City of Public Transportation vehicles for which a vehicle inspection permit, or Public Transportation Certificate, as provided for in this chapter, has not been issued, or has been suspended or revoked.

8.12.410 State School Bus Operations - Exemptions

Any person, firm or corporation owning or leasing and operating school bus equipment under a valid existing school bus contract with the State shall be exempt from the provisions of this Chapter during the duration of such contract. This exemption shall include transportation to and from sports events and other extra-curricular, school-related activities. Any person, firm or corporation operating under the provisions of this Chapter shall not provide a service in competition with certified and permitted public transportation services authorized by the Homer City Council.

8.12.510 Public Transportation - Appeals

The purpose of this chapter governs all appellate actions and determinations under the Homer City code pertaining to Public Transportation. The Homer City Council shall sit as a Board of Appeals provided first there has been an Administrative hearing resulting in conclusions and findings.

An appeal to suspension or revocation of a Public Transportation Certificate, Vehicle Inspection Permit or Chauffeur's License must be filed within fifteen days of the action or determination of the administrative hearing. Appeals to the court from the action of the Board of Appeals shall be filed no later than fifteen days following the decision of the Appeals Board. Any decision not appealed within the provided period shall become final.

All petitions for appeal shall be filed in writing with the City Clerk. The petitions will contain, but not be limited to the following:

- a. Name and address of the petitioner
- b. A description of the action or determination from which the appeal is sought;
- c. The grounds for appeal, which must include a description of detailed and specific allegations of error.

8.12.520 Appeals Procedure

- a. All appeals must be decided by the Board of Appeals within sixty days after the appeal has been filed.
- b. The appellant, complaintant and all parties who have participated in or been a party to the Administrative Hearing and decision shall be provided with fifteen days notice of the appeal hearing by certified, receipted mailing.
- c. An electronic recording shall be kept of the entire proceeding and shall be reduced to written minutes. The electronic recording shall be preserved for one year unless required for further appeals.
- d. The appeal record and Board procedure shall be as follows:
 1. Complaints, notices and correspondence regarding the Administrative Hearing
 2. Minutes of the Administrative Hearing

3. Written findings and conclusions setting out the decision of the Administrative Hearing.
4. The City Attorney must be present at convened Board of Appeal proceedings convened under this chapter.
5. The Board of Appeal shall adopt as part of its decision an official statement of findings stating the reason(s) supporting its decision.
6. Copies of the Board of Appeals decision shall be promptly mailed to all parties participating in the appeal.

8.12.530 Board of Appeals - Notification

Notification of Board of Appeals - Public Transportation shall be published in a newspaper of general circulation within the City not less than two consecutive weeks prior to the hearing. The appellant, complainant and all other parties to the appeal shall be notified by sending a certified, receipted copy of the notice of Appeal Hearing not less than two weeks before the Appeals hearing. The Notice of Appeals Hearing shall include:

- a. Date, time and place of the hearing
- b. The name and address of the party making the appeal.
- c. A summary statement of the grounds for appeal.

8.12.600 Purging of Criminal Record

A person who applies for any license under this chapter two years or more after conviction of a misdemeanor and ten years or more after conviction of a felony shall be considered purged of his criminal record and the prior conviction alone shall not bar the issuance of a license to the applicant.

8.12.700 Operation of Public Transportation - Vehicles Other Than Motorized

Modes of transportation other than motorized will be given the same consideration as motorized vehicles; however the operator/driver of said transportation mode will maintain clean and sanitary environmental conditions at all times.

8.12.800 Effective Date

All provisions of this chapter will become effective thirty days from adoption. Existing Permits and Certificates will remain in full force and effect until expiration date or June 30, 1985 whichever comes first.

City of Homer

Wayne Kessler, Mayor

Attest:

Kathleen Herold, City Clerk

Reviewed and approved as to form and content:

Phil C. Shealy, City Manager

A. Robert Hahn, City Attorney

Date: _____

Date: _____

First Reading:
Public Hearing:
Second Reading:
Date of Adoption:
Effective Date: See Section 8.12.800