

CITY OF HOMER
HOMER, ALASKA

failed
08/10/92

ORDINANCE 92-34(S)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, AMENDING THE HOMER CITY CODE TITLE 5, HEALTH AND PUBLIC SAFETY, BY ADDING CHAPTER 5.22, HAZARDOUS MATERIALS, COMMUNITY RIGHT-TO-KNOW (CRTK).

WHEREAS, part of health and public safety is community awareness; and

WHEREAS, this proposed ordinance provides the public a mechanism to determine what hazardous materials exist in significant quantities in their community; and

WHEREAS, through the implementation of this ordinance emergency responders are made aware of these hazards and can better plan for emergencies and conduct operations more safely; and

WHEREAS, other communities within the State of Alaska are participating in Community Right-to-Know with success; and

WHEREAS, the Homer Public Safety Department, supports this Ordinance; and

WHEREAS, the CRTK is designed to provide for higher compliance in filing Tier II forms through greater public education and enforcement when necessary; and

WHEREAS, the CRTK provides for placarding requirements for facilities and further requires the regulated facilities to provide considerable information to the fire department for preplanning including facility or site plans; and

WHEREAS, the Fire Department will keep lists and standards on hand and assist facilities with compliance.

NOW, THEREFORE, the City of Homer Ordains:

Section 1. That the Homer City Code be amended to add chapter 5.22, Hazardous Materials, Community Right-to-Know. Which shall read as follows:

CHAPTER 5.22

HAZARDOUS MATERIALS

Sections:

| | |
|---------|---|
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| 5.22.11 | Partial Exemption for Heating Fuels Used on Premise |

5.22.01 Definitions

As used in this chapter:

- a. "Acute hazardous waste" means a waste listed in 40 Code of Federal Regulations (CFR) Parts 261.31, 261.32, or 261.33(e), as amended.
- b. "Consumer commodity" means a hazardous material that is packaged and distributed in a form intended or suitable for retail sale for use by a individual, as defined in 49 CFR.
- c. "Extremely hazardous substance" means a substance listed in the Appendices to 40 CFR Part 355.
- d. "Facility" means any land, building, equipment, structure, stationary item or combination thereof, not a transshipment facility, that is located on a single site or on contiguous or adjacent sites owned, leased, operated or otherwise controlled by the same person, other than a residential dwelling, as defined in the Uniform Building Code.
- e. "Handles" means disposes of , generates, processes, stores, treats, or uses.
- f. "Hazardous category" means the five physical or health classes defined in 40 CFR Part 370.2.
- g. "Hazardous class." means the class of hazardous materials authorized for transportation by 49 CFR Subchapter C.
- h. "Hazardous chemical" means any hazardous chemical as defined under 29 CFR Part 19100.1200(c).
- i. "Hazardous material" means a material subject to 49 CFR Subchapter C, including those (1) defined at 49 CFR Part

171.8 or 171.11, as amended; or (2) listed in the Hazardous Materials Table at 49 CFR Part 172.101 or 172.102, as substance determined by the Alaska Department of Public Safety, Division of Fire Prevention to pose a significant health and safety hazard. Hazardous material does not include food, drug, alcoholic beverages, cosmetics, tobacco, or tobacco products intended for personal consumption.

- j. "Hazardous waste" means a waste as defined in 40 CFR Part 261, as amended.
- k. "Person" means the owner, operator, or manager of any entity or any other individual in charge handling hazardous materials, hazardous chemicals, or hazardous wastes, and includes, but is not limited to, individuals, trusts, corporations (including government corporations, partnerships, joint ventures, or a state or political subdivision thereof.
- l. "Tier II Inventory Form" means the hazardous chemical inventory form set forth in 40 CFR Part 370.41, as amended.
- m. "Threshold planning quantity" means the quantity for an extremely hazardous substance defined in 40 CFR Part 355, as amended.
- n. "Transshipment Facility" means any land, building, equipment, structure, stationary item, or combination thereof that is located on a single site or on contiguous or adjacent sites owned, leased, operated or otherwise controlled by the same person whose principle business consists of the handling of materials including handling hazardous materials or hazardous wastes while such materials remain in the stream of interstate, intrastate or international commerce.

5.22.02 Reporting Requirements

- a. The reporting requirements of this section shall only apply if the following quantities are handled at a facility, other than a transshipment facility on any day during a calendar year:
 - 1. Any quantity of a hazardous material of the following Hazard Class or the International Civil Aviation Organization (ICAO)/ International Maritime Organization (IMO) equivalents:
 - A. Poison A;
 - B. Poison B;
 - C. Class A explosive;
 - D. Class B explosive;
 - E. Flammable solid (dangerous when wet); or

F. Radioactive.

2. A hazardous material or hazardous chemical other than one described in subsection a(1) of this section in an amount equal to or greater than 500 pounds;
 3. An extremely hazardous substance in an amount equal to or greater than 500 pounds or the threshold planning quantity, whichever is less;
 4. A hazardous waste in an amount equal to or greater than 220 pounds;
 5. An acute hazardous waste in an amount equal to or greater than 2.2 pounds;
 6. A consumer commodity of a hazardous material or hazardous chemical in an amount equal to or greater than 1,000 pounds at a facility longer than 14 days, other than a transshipment facility, prior to placement for display or sale.
- b. A person who handles hazardous materials or hazardous chemicals shall submit a report to the Homer Fire Chief as provided on a Tier II Inventory Form with a site layout and floor plan of each facility showing the usual and ordinary location of each hazardous materials, hazardous chemical, and hazardous waste.
- c. A person who handles hazardous wastes shall submit a report to the Homer Fire Department on a form approved by the Homer Fire Chief, including:
1. Facility name and address;
 2. Owner/Operator name and address;
 3. Emergency contact names and phone numbers;
 4. EPA Hazardous Waste Number for each hazardous waste;
 5. Characteristic for each hazardous waste (ignitable, reactive, corrosive or toxic);
 6. Maximum daily and average daily quantities handled during the reporting period and number of days handled on-site;
 7. Site layout and floor plan showing the usual and ordinary location of each hazardous waste.
- d. A person who handles consumer commodities shall submit a report to the Homer Fire Department on a form approved by the Homer Fire Chief, including:
1. Facility name and address;
 2. Owner/Operator name and address;
 3. Emergency contact names and phone numbers;
 4. Product name of each hazardous material or hazardous chemical;

5. Physical and health hazard of each hazardous material or hazardous chemical;
6. Maximum daily and average daily quantities handled during the reporting period and number of days handled on-site;
7. Site layout and floor plan showing the usual and ordinary location of each hazardous waste.

5.22.03 Exceptions

- a. The Homer Fire Chief may except by regulation adopted pursuant to Section 5.22.03 of this code certain hazardous materials listed in the Hazardous-Material Table at 49 CFR Part 172.101, or 172.102 from the requirements of this chapter upon determination that the materials do not pose a significant health or safety hazard. The Homer Fire Department shall maintain a list of the materials excepted from the reporting requirements for public review.
- b. The Homer Fire Chief may adopt regulations pursuant to Chapter 5.22.02 of this code requiring that a person report smaller quantities of a hazardous material, hazardous chemical or hazardous waste than specified in this chapter upon a determination that the smaller quantity poses a significant health or safety hazard.
- c. This chapter shall not apply to any hazardous material, hazardous chemical or hazardous waste or consumer commodity possessed by an individual for his personal, family or household use.

5.22.04 Reporting Schedules

- a. A person who is required to submit a report pursuant to Section 5.22.02 or 5.22.07 shall submit that report by March 1993 for every transshipment facility and facility in operation on March 1993, and no later than March 1, of each year thereafter. The reporting period shall be for the previous calendar year, except that the initial report filed for March 1993 may be a projection for the following calendar year.
- b. A person not subject to the reporting requirements of Section 5.22.02 or 5.22.07 on March 1993 who subsequently becomes subject to the terms of the section, shall submit the information required in Section 5.22.02 or 5.22.07 within 30 days after commencement of such handling and shall update the information by March 1 of each year thereafter. The initial report may be a projection of activities for the following calendar year.

5.22.05 Report Updating

- a. A person required to make a report by this chapter for a facility, other than a transshipment facility, shall report each change to the most recently submitted site layout or floor plan showing the change in storage location for a hazardous material, hazardous chemical, or hazardous waste to the Homer Fire Chief by telephone within 24 hours or the next City business day and in writing within 30 days after each such change.
- b. A person required to make a report by Sections 5.22.02 b, c, or d for a facility, other than a transshipment facility, shall update the annual inventory report if there is an addition of a hazardous material, hazardous chemical, or hazardous waste that would change the reporting range code (00 to 10) contained in the annual current Tier II Inventory Form. Such an update report shall be made within 30 days of receipt of the additional hazardous material, hazardous chemical, or hazardous waste.
- c. A person required to make a report by Section 5.22.02 b, c, or d for a facility, other than a transshipment facility, shall update the annual inventory report whenever a hazardous material, hazardous chemical, or hazardous waste of a reportable quantity of a new hazard category is handled at a facility. Such a report shall be made within 30 days of receipt of the additional hazardous material, hazardous chemical, or hazardous waste in the new hazard category.

5.22.06 Placarding Requirements

- a. A person who handles hazardous materials, hazardous chemicals, or hazardous wastes at a facility, other than a transshipment facility, in an amount equal to or greater than the quantities specified in Section 5.22.02 shall post placards that give adequate warning to the public and to emergency response personnel of the type of hazardous materials, hazardous chemicals, or hazardous waste handled.
- b. A placard shall meet the standard specifications for size, lettering, numbers, colors, and symbols established by the National Fire Protection Association (NFPA) for the 704 system, unless an alternative placard has been approved for use by the Homer Fire Chief.
- c. The Homer Fire Chief shall determine which numbers and symbols shall be contained on placards for facilities, based on the inventory reports submitted in accordance with this chapter. Where a facility contains more than one class of hazardous materials hazardous chemicals, or hazardous wastes, the placard shall be based on the hazardous material, hazardous chemical, or hazardous waste with the

most severe degree of hazard.

- d. Any facility handling consumer commodities of a hazardous material or hazardous chemical in an amount equal to or greater than 1,000 pounds on any single day, shall post a placard in a form designated by the Homer Fire Chief at a location allowed in this subsection E. of this section.
- e. Placards shall be placed as provided in this section:
 1. Unless alternative placarding locations have been approved in accordance with this subsection, placards shall be posted as follows:
 - A. One placard shall be displayed on the exterior wall adjacent to the main street entrance;
 - B. At least one placard shall be displayed on each side of the structure for which there is an entrance other than the main entrance;
 - C. Each placard shall be posted on the latch side of the door. In the case of double door, the placard shall be displayed to the right side of the door;
 - D. Each placard shall be posted within 24 inches of an entrance and placed at a height of 4.5 to 5.5 feet above the bottom edge of the entrance;
 - E. No other sign shall be placed within 6 inches of any placard;
 - F. Placards shall be securely mounted and maintained in such condition as to be easily read.
 2. A request for alternative placard locations, different than those described in subsection E.1 and E.3 of this section, shall be submitted to the Homer Fire Chief with an annual report or modification thereof. The request shall state the reasons why the locations in this chapter should not apply or are otherwise inappropriate, and describe a proposed alternative placard location and explain how the alternative location will give adequate warning to the public and emergency response personnel. The alternative placard location may be used only upon written approval by the Homer Fire Chief.
 3. Subject to the written approval of the Homer Fire Chief, the following alternative placard locations to those described in subsection e.1 of this section may be used:
 - A. Multiple-Story Buildings with Interior Fire

Panels: Placards may be posted at the interior fire panels showing the specific floors on which hazardous materials, hazardous chemicals, or hazardous wastes are handled and the appropriate placard designations for each floor;

- B. Retail Establishments: A placard does not need to be adjacent to the main customer entrance provided that the placard can be placed at a location on the exterior wall in a manner giving adequate warning to the public and emergency response personnel.
- f. The Homer Fire Chief may require a specific area or room within a facility to be placarded upon a request by a facility or upon his determination that the type or location of hazardous materials, hazardous chemical, or hazardous wastes may pose a significant health or safety threat to emergency personnel if the specific area or room is not placarded.
- g. A person shall post the placards, as designated by this section or by the Homer Fire Chief, within 30 days of receipt of notification from the Homer Fire Department that the placards have been designated.
- h. Placards shall be removed within 24 hours after hazardous material, hazardous chemicals, or hazardous wastes are no longer being handled at a facility.

5.22.07 Transshipment Facility Requirements

- a. A person who handles hazardous materials or hazardous wastes at a transshipment facility shall submit a report in accordance with the schedule stated at Section 5.22.04 on a form prescribed by the Homer Fire Chief and including:
 - 1. transshipment facility name and address;
 - 2. owner and operator names and addresses;
 - 3. emergency contact names, titles and phone numbers;
 - 4. a list of all hazard classes handled at the transshipment facility;
 - 5. site layout and floor plan showing the usual and ordinary locations of hazardous material and hazardous waste at the transshipment facility;
 - 6. the method of marking or warning used.
- b. A person required to submit a report pursuant to subsection a(1) of this section shall:
 - 1. update that report within 30 days after a new hazard class has been handled or a change in the marking or warning system used at the transshipment facility; and

2. report each change to the most recently submitted site layout and floor plan showing the changes in the usual and ordinary storage location for a hazardous material or hazardous waste to the Homer Fire Chief by telephone within 24 hours or next City business day and in writing within 30 days after each such change.
- c. A person who operates a transshipment facility shall display marking and warnings under one of the following categories:
1. mark the immediate area to be used for hazardous materials or hazardous wastes handling with a conspicuous sign reading "Hazardous Materials", using block letters a minimum of 3 inches in height with a 1/2 inch strike on a white background; or
 2. display hazardous materials labels or placards in accordance with DOT requirements to identify the commodities present; or
 3. display placards in accordance with Section 5.22.06 or
 4. display such other placards, warnings, or markings as the Homer Fire Chief may require or allow in writing following his determination that such additional or alternative action will reasonably protect the public safety.
- d. Transshipment facilities are not subject to the requirements related to reporting and placarding contained in this chapter except those set forth in Section 5.22.04 and 5.22.07.

5.22.08 Enforcement

- a. A person who violates any provision of this title shall be guilty of a misdemeanor and shall be subject to a fine of not less than \$50 nor more than \$300.00 for each offense.
- b. Each day of violation shall constitute a separate offense for purposes of this title.
- c. The enforcement provisions in this section shall not be effective for facilities and transshipment facilities handling less than 10,000 pounds of a hazardous material, hazardous chemical or hazardous waste until March 1993.

5.22.09 Certification and Fees

- A. A person subject to the reporting requirements of this chapter shall obtain a certificate of compliance with this chapter from the Homer Fire Chief. An application for a

certificate shall be made on a form approved by the Homer Fire Chief no later than March 1 of every calendar year or within 30 days after commencement of activities to be reported under this chapter.

- B. A certificate shall be valid only so long as the fee required by subsection c of this section is tendered to Homer no later than 30 days after the date of the municipal invoice for that fee.
- c. The fee to be paid by each facility and transshipment facility is:

Total daily maximum amount
of hazardous materials,
hazardous chemicals or
hazardous wastes handled
at a facility on any one
calendar day

| | <u>Annual Fee</u> | |
|-------------------------------|-----------------------------------|-----------------|
| | <u>Transshipment Facility</u> | <u>Facility</u> |
| 0 to 999 pounds | \$ 100 | \$ 50 |
| 1,000 to 4,999 pounds | \$ 125 | \$ 100 |
| 5,000 to 14,999 pounds | \$ 150 | \$ 150 |
| 15,000 to 74,999 pounds | \$ 200 | \$ 200 |
| 75,000 to 299,999 pounds | \$ 250 | \$ 250 |
| 300,000 to 649,000 pounds | \$ 750 | \$ 750 |
| 650,000 to 999,999 pounds | \$ 1,500 | \$ 1,500 |
| Greater than 1,000,000 pounds | \$ 3,000 | \$ 3,000 |

5.22.10 Use of Fees and Penalties

All fees and penalties collected in connection with the administration or enforcement of this chapter shall be dedicated to the program authorized by this chapter.

5.22.11 Partial Exemption for Heating Fuels Used on Premise

- a. If the sole hazardous material regulated at the reporting facility is either heating fuel oil, or propane for heating or cooking, used on premise the following requirements are waived:
 1. The requirement to submit floor plans. Site plans are required.
 2. Placards will not be required if the tanks are outside the structure and meet applicable installation standards and regulations.
 3. The reporting fee.

Section 2. This is a general ordinance of a permanent nature and the provisions of Section 1 as contained herein shall be codified for inclusion in the Homer City Code.

ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, THIS
_____ DAY OF _____ 1992.

THE CITY OF HOMER, ALASKA

HARRY E. GREGOIRE, MAYOR

ATTEST:

MARY L. SHANNON, CITY CLERK

AYES:
NOES:
ABSENT:
ABSTAIN:

FIRST READING:
PUBLIC HEARING:
SECOND READING:
EFFECTIVE DATE:

Reviewed and approved as to form and content:

RICHARD J. LELAND, CITY MANAGER

GORDON J. TANS, PERKINS/COIE

DATE:

DATE: