

CITY OF HOMER
HOMER, ALASKA

failed
7/26/93

ORDINANCE 93 - 11 (S)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HOMER AMENDING TITLE 8 OF THE CITY CODE TO PROHIBIT OPERATION OF TRANSIENT AND ITINERANT MERCHANTS AND MOBILE FOOD VENDORS ON PUBLIC PROPERTY EXCEPT IN DESIGNATED AREAS, AND REQUIRING LIABILITY INSURANCE

THE CITY OF HOMER ORDAINS:

Section 1. Section 8.08.010 of the Homer City Code is hereby amended by adding paragraph a and amending paragraph b as follows:

a. "Public property" is any public street, alley, right-of-way, road, sidewalk, trail, or other public way, and any and all public parks, campgrounds, squares, spaces, plazas, grounds, buildings, parking lots, and parking spaces, and any and all public ramps, docks, wharves, piers, and floats in the city, and vacant land owned by or leased to the city. "Public property" shall not include any land owned by the city and leased to a person other than another unit of government.

ab. "Temporary business" is a business or enterprise that is to be carried on for a period of not more than one hundred and fifty-three (153) days less-than-sixty-days per calendar year duration within the City.

Section 2. Section 8.08.030 of the Homer City Code is hereby amended by adding new subsections m and n to read as follows:

m. Documentary proof to the City Planner or designee indicating that the itinerant or transient merchant is covered by liability insurance, at a rate set by resolution of the Homer City Council.

n. In addition to such proof of insurance, the applicant shall agree in writing to hold the City harmless against all claims of whatever kind including any legal defense costs resulting from the business activities carried on under the itinerant or transient merchant license.

Section 3. Section 8.08.060 of the Homer City Code is hereby amended to read as follows:

All licenses issued under the provisions of this chapter shall expire one hundred and fifty-three (153) sixty days following date of issue. Land uses for which a temporary license is issued must cease upon

expiration of the permit, including immediate removal of any temporary structure.

Section 4. Section 8.08.100 of the Homer City Code is hereby amended to read as follows:

~~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 parking, campgrounds, parks or open spaces or where his operation might impede or inconvenience the public. For the purpose of this chapter, the judgement 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.~~

It is unlawful for a transient or itinerant merchant to engage in business on public property, except in such area, if any, and for such fees as may be designated from time to time by resolution of the City Council.

Section 5. Section 8.11.020 of the Homer City Code is hereby amended by adding the following definition:

"Public property" is any public street, alley, right-of-way, road, sidewalk, trail, or other public way, and any and all public parks, campgrounds, squares, spaces, plazas, grounds, buildings, parking lots, and parking spaces, and any and all public ramps, docks, wharfs, piers, and floats in the city, and vacant land owned by or leased to the city. "Public property" shall not include any land owned by the city and leased to a person other than another unit of government.

Section 6. Subsection 8.11.040 b of the Homer City Code is hereby amended to read as follows:

b. Documentary proof to the City Planner or designee indicating that the mobile food service is covered by liability insurance, as set by resolution of the Homer City Council. as follows:

Section 7. Section 8.11.070 of the Homer City Code is hereby amended to read as follows:

~~a. A mobile food service may be operated in conformity with the Homer Zoning Code, from:~~

~~-----1. Private property or leased land, provided the owner or lessor has first granted permission in writing to the operator.~~

~~-----2.---Public streets,--alleys or rights-of-way at--least--fifteen--feet--from--the--traveled--portion thereof,--for--a--period--not--exceeding--twenty-four--hours. The Clerk may grant permission to operate for a longer period of designated time.~~

~~-----b.---A mobile food service may not be operated in front of or immediately adjacent to an established business offering the same or similar commodities from a fixed location,--unless a designated vendor parking area has been named.~~

~~-----c.---No person may operate a mobile restaurant inside the boundaries of a municipal park or campground unless such operation is permitted under ordinance, regulation or other lawful authority.~~

~~-----d.---On the Homer Spit,--no licensee shall be permitted to operate in any congested area,--to include areas designated as public parking,--campgrounds,--parks or open space or where his operation might impede or inconvenience the public.~~

It is unlawful for a mobile food service to engage in business on public property, except in such areas, if any, and for such fees as may be designated from time to time by resolution of the City Council.

Section 8. Section 8.11.060 of the Homer City Code is hereby amended as follows:

Sections 8.08.050, 8.08.070, 8.08.080, 8.08.090, 8.08.100, 8.08.110, 8.08.120, and 8.08.140 are incorporated by this reference and shall apply to licenses obtained under this chapter.

Section 9. 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 26th day of July, 1993.

CITY OF HOMER

HARRY E. GREGOIRE, MAYOR

ATTEST:

MARY L. SHANNON, CITY CLERK

AYES:

NOES:

ABSTAIN:

ABSENT:

First Reading: June 28, 1993

Public Hearing: July 12, 1993

Second Reading: July 26, 1993

Effective Date: July 27, 1993

Reviewed and approved as to form and content:

RICHARD J. LELAND
CITY MANAGER

GORDON J. TANS
CITY ATTORNEY