

CITY OF HOMER  
HOMER, ALASKA

Chief of Police

ORDINANCE 96-5(A)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HOMER AMENDING CHAPTER 8.12 OF THE CITY CODE TO REVISE CHAUFFEUR'S LICENSING REQUIREMENTS; TO REVISE GROUNDS FOR SUSPENSION OR REVOCATION OF CHAUFFEUR'S LICENSES; AND MAKING TECHNICAL CORRECTIONS.

THE CITY OF HOMER ORDAINS:

Section 1. Subsection 8.12.110(h) of the Homer City Code is hereby amended to read as follows:

h. "Vehicle permit" is the documented authority to operate a specific vehicle for public transportation within the City upon completion of vehicle inspection by the Homer Police Department ~~Department of Public Safety~~.

Section 2. Section 8.12.120 of the Homer City Code is hereby amended to read as follows:

8.12.120 Vehicle permit--Required. Public transportation vehicle operating within the City shall first have been inspected and assigned a vehicle inspection permit from the Homer Police Department ~~Department of Public Safety~~. Vehicles shall be inspected annually as provided by this chapter.

Section 3. Section 8.12.130 of the Homer City Code is hereby amended to read as follows:

8.12.130 Vehicle permit--Applications. Application for vehicle permits shall be made to the Homer Police Department ~~Department of Public Safety~~.

Section 4. Section 8.12.150 of the Homer City Code is hereby amended to read as follows:

8.12.150 Vehicle permit--Term, issuance and fee. When satisfied the vehicle meets the requirements of safe operation for public transportation, the Chief of Police ~~Director of Public Safety~~ or his designee shall issue a vehicle inspection permit.

The permit shall be valid for one-year period or portion thereof, expiring on June thirtieth. The fee shall be twenty-five dollars per vehicle unless the permit is applied for after January first, then the fee shall be twelve dollars and fifty cents 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 permits are nontransferable from vehicle to vehicle. Replacement of lost vehicle permits may be obtained from the Homer Police Department ~~Department of Public Safety~~ for a fee of five dollars.

Section 5. Section 8.12.170 of the Homer City Code is hereby amended to read as follows:

8.12.170 Vehicle permit--Suspension/revocation.

a. Subsequent to the issuance of a vehicle permit, the Chief of Police ~~Director of Public Safety~~ may cause and effectuate a temporary suspension of the same by written notice for failure to comply with any provision or prerequisites to issuance.

b. A suspended vehicle 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 permits may occur if the provisions of suspension are not satisfied within the time specified by the Chief of Police ~~Director of Public Safety~~ in the notification of suspension. Revocation caused by mechanical/safety equipment faults shall require a new mechanical inspection and issuance of another vehicle permit. All notifications of suspension shall be posted prominently in the place of business for which the vehicle permit has been issued.

Section 6. Section 8.12.200 of the Homer City Code is hereby amended to read as follows:

8.12.200 Chauffeur's license--Required. Anyone operating a public transportation vehicle upon the streets of the City shall first apply for, be issued and thereafter hold in effect a City Chauffeur's license granted by the Homer Police Department ~~Department of Public Safety~~.

a. To apply for, be issued and thereafter hold 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:

i. have been convicted Convicted of sexual offense;

ii. have been convicted of a felony involving a substance controlled under Alaska Statutes Title 11.

~~iii. ii.~~ have been convicted Convicted of a felony or misdemeanor involving a crime of violence;

~~iv. iii.~~ have been convicted Convicted of a felony and imprisoned under such convictions under sentences which were not concurrent;

~~v. iv.~~ have been convicted Convicted of any felony wherein any portion of the sentence imposed thereon existed within five years immediately preceding the application;

vi. have been convicted of a misdemeanor involving contributing to the delinquency of a minor;

~~vii. v.~~ be currently 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 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 Homer Police Department ~~Department of Public Safety.~~

d. The applicant shall pay a nonrefundable application fee of ten dollars plus fingerprint and other processing fees in the amount determined by Council resolution and set forth in the City administrative fee schedule.

Section 7. Section 8.12.220 of the Homer City Code is hereby amended to read as follows:

8.12.220 Chauffeur's license--Issuance, term, fee. Upon satisfactory compliance with the requirements of this chapter, the ~~Chief of Police~~ 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 ~~in with~~ the public transportation vehicle. Upon receipt of said chauffeur's license, the fee of five dollars shall be tendered. All chauffeur's licenses shall expire on June thirtieth following the date issued and shall be renewed annually thereafter.

Section 8. Section 8.12.230 of the Homer City Code is hereby amended to read as follows:

8.12.230 Chauffeur's license--Suspension/revocation. The ~~Chief of Police~~ Director of Public Safety or ~~their designees~~ 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:

a. False or erroneous material statements contained in the licensee's application and which were conducive to the issuance of the license;

b. Failure of the licensee to properly display, in any public transportation vehicle permitted under this chapter, the chauffeur's license containing identifying photograph;

c. Operation within the City of public transportation vehicles for which a vehicle permit, as provided for in this chapter, has not been issued or has been suspended or revoked;

d. Any conduct while operating a public transportation vehicle in the City that would constitute a felony or misdemeanor under state law.

e. Any conduct that would constitute a violation of this chapter.

f. Using or operating a public transportation vehicle in a negligent or reckless manner.

g. Failure to remain qualified to hold a chauffeur's license under subsection 8.12.200(a).

Section 9. Section 8.12.240 of the Homer City Code is hereby amended to read as follows:

8.12.240. 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 ~~may shall~~ be considered purged of his criminal record and the prior conviction alone shall not bar the issuance of a license to the applicant.

Section 10. Section 8.12.300 of the Homer City Code is hereby amended to read as follows:

8.12.300 State school bus operations--Exemptions. a. 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 for the duration of such contract. This exemption shall include transportation to and from sports events and other extra-curricular, school-related activities.

b. Chauffeur's license: Any school bus operator who has a valid and subsisting operator's license from the state and is currently operating under the requirements of the state shall not be required to obtain a chauffeur's license under Sections 8.12.200--8.12.230 of this code. Any such operator, or the school bus contractor by whom he or she is employed, shall furnish a copy of the current operator's license for each operator to be so exempted to the **Homer Police Department** ~~Department of Public Safety~~. This exemption shall be in force when verification of the existence of such a current school bus operator's license satisfactory to the **Chief of Police--Homer** ~~Department of Public Safety~~ is obtained and the exemption shall continue in effect only so long as the operator holds a current and valid school bus operator's license. Any suspension or revocation of such license shall automatically and concurrently terminate the exemption under this section.

c. Vehicle permit/inspection of vehicles: Any school bus which is inspected by the Alaska State Troopers in accordance with contract requirements within the state is exempt from the inspection requirements of this section. The owner/contractor shall furnish evidence of current vehicle inspection by the Alaska State Troopers to the **Homer Police Department--Department** ~~of Public Safety~~ for each school bus to be operated within the

City. Failure to provide satisfactory evidence of inspection shall terminate the exemption provided in this subsection.

Section 11. Section 8.12.460 of the Homer City Code is hereby amended to read as follows:

~~8.12.460 Waiver of Homer Chief of Police Director of Homer Department of Public Safety.~~ The ~~Chief of Police Director of the Homer Department of Public Safety~~ is authorized to waive any requirement under this chapter, for good cause shown, on a temporary or emergency basis, for a period not to exceed thirty days. If the matter has not been resolved within the thirty-day period, the ~~Chief of Police Director~~, at his discretion, may extend the waiver for an additional ten-day period. No further extension shall be granted.

Section 12. Section 8.12.500 of the Homer City Code is hereby amended to read as follows:

~~8.12.500 Public transportation--Complaints.~~ All complaints regarding operations by public transportation vehicles, when not settled satisfactorily by the licensee, shall be directed to the ~~Chief of Police Director of Public Safety~~ or his designee. The ~~Chief of Police Director~~ may notify the licensee upon receipt of any such complaint.

Section 13. Section 8.12.600 of the Homer City Code is hereby amended to read as follows:

~~8.12.600 Public transportation--Revocation or suspension--Administrative hearing.~~ a. Before suspending or revoking any public transportation permit or license, the ~~Chief of Police, Director of Public Safety and the City Manager, or their~~ **designees** shall conduct an administrative hearing into the cause for suspension and/or revocation.

b. Notice shall be given by certified mail, ~~return receipted requested,~~ **return** to the permit or license holder and any complainant, of the intent to revoke or suspend the ~~permit or license public transportation,~~ **permit or license**, naming specific cause for such action. The notice shall precede the hearing by no less than

fifteen days and shall include, but is not limited to the following:

- i.a. The nature of violation or complaint causing revocation or suspension action;
  - ii.b. The date, time and place of the hearing;
  - iii.e. The procedure by which the licensee may appeal the decision of the administrative hearing.
- c. After conclusion of the administrative hearing, a written determination of the issues, including conclusions and findings, shall be prepared and signed by the hearing officer.
- d. A copy of the written determination shall be sent by certified mail, return receipt requested, to all persons who were entitled to notice of the hearing and to the Chief of Police. The time for appeal from the written determination begins to run three days after the date of mailing.

Section 14. Section 8.12.700 of the Homer City Code is hereby amended to read as follows:

8.12.700 Public transportation--Appeals. a. Sections 700 through 720 of this chapter govern all appeals from administrative determinations made under this chapter. The purpose of this chapter governs all appellate actions and determinations under the Homer City Code pertaining to public transportation. The City Council shall sit as a Board of Appeals provided first there has been an administrative hearing resulting in a written determination with conclusions and findings.

b. An appeal from an administrative determination, including without limitation a suspension or revocation of a vehicle 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.

c. All applications for appeal appeals to the Board of Appeals shall be filed in writing with the City Clerk. The notice of appeal petitions will contain, but not be limited to the following:

- ~~i.a.~~ Name and address of the **appellant**-petitioner;
- ~~ii.b.~~ A description of the action or determination from which the appeal is sought;
- ~~iii.e.~~ The grounds for appeal which must include a description of detailed and specific allegations of error.

d. Appeals to the Superior Court from the action of the Board of Appeals shall be filed no later than fifteen days following the decision of the Board of Appeals. The time for appeal to the Superior Court begins to run three days after the date of mailing of the decision of the Board of Appeals.

Section 15. Section 8.12.720 of the Homer City Code is hereby amended to read as follows:

8.12.720 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, ~~receipt~~-copy of the notice of appeal hearing by certified mail, return receipt requested, not less than, ~~fifteen days~~-~~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.

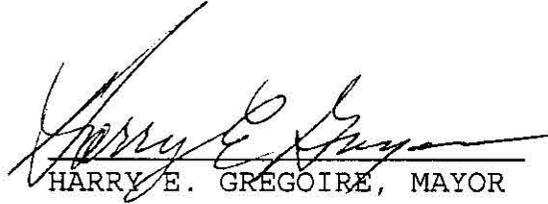
Section 16. Section 8.12.800 of the Homer City Code is hereby repealed.

Section 17. This ordinance is of a permanent and general character and shall be included in the City code.

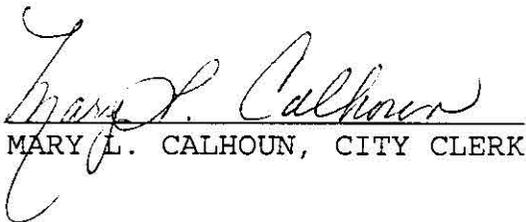
ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, this  
\_\_\_\_ day of \_\_\_\_\_, 1996.

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City of Homer  
Ordinance 96-5(A)

CITY OF HOMER

  
HARRY E. GREGOIRE, MAYOR

ATTEST:

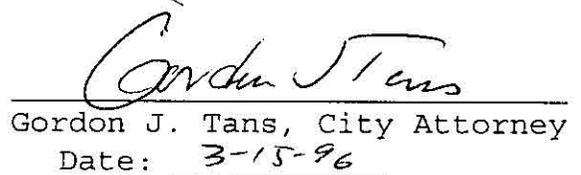
  
MARY L. CALHOUN, CITY CLERK

AYES: 6  
NOES: 0  
ABSTAIN: 0  
ABSENT: 0

First Reading: 02/12/96  
Public Hearing: 02/26/96  
Second Reading: 03/11/96  
Effective Date: 03/12/96

Reviewed and approved as to form and content:

  
Patti J. Whalin, City Manager  
Date: \_\_\_\_\_

  
Gordon J. Tans, City Attorney  
Date: 3-15-96

Fiscal Note not applicable.