

*Filed 6/8/98 Me*

CITY OF HOMER  
HOMER, ALASKA

Requested by Council  
City Attorney

ORDINANCE 98-8(A)

AN ORDINANCE OF THE CITY OF HOMER REPEALING  
AND REENACTING HOMER CITY CODE CHAPTER 19.12  
REGULATING EXCAVATION AND REMOVAL OF GRAVEL  
AND OTHER FILL MATERIALS FROM THE HOMER SPIT  
AND BEACHES IN THE CITY

THE CITY OF HOMER HEREBY ORDAINS:

Section 1. Homer City Code Chapter 19.12 is repealed and reenacted to read

19.12.010 Definitions. For the purpose of this chapter, the following words or phrases shall have the meanings respectively ascribed to them in this section:

"Excavate" or "excavation" means the digging out and removal of any quantity of gravel or other fill materials whereby any existing surface grade is altered or disturbed.

"Gravel or other fill materials" means any gravel, dirt, or other soil material deposited by natural or manmade processes. It does not include import-export material.

"Import-export material" means gravel, dirt or other soil material shipped to the Homer Spit and temporarily deposited there for storage pending shipment to another location.

"Insignificant quantity" means less than two (2) cubic yards per day, loaded by non mechanized means.

"Remove" or "removal" means the movement, by lifting, pushing aside, or taking off or away.

19.12.020 Excavation or removal of gravel prohibited. a. It is unlawful for a person to excavate or remove gravel or other fill from any beach in the city or from any portion of the Homer Spit.

b. It is unlawful for a person to take, export or otherwise remove from the confines of the Homer Spit any gravel or other fill material lawfully excavated or removed pursuant to section 19.12.030, except in insignificant quantities.

19.12.030 Excavation or removal of gravel -- authorized exceptions. It shall not be a violation of section 19.12.020(a) for a person to excavate or remove gravel or other fill material:

a. to the extent necessary to construct, maintain, or repair sewage lines, water lines, underground utility lines, wells, oil and fuel tanks and related lines and above ground utility lines, provided such excavated material is not removed from site of construction;

b. to construct, clear, maintain, or repair any dock, wharf, breakwater, sea wall, protective berm, channel or public road, provided such excavated materials are not removed from Homer Spit;

c. to construct, maintain, or repair a foundation or to prepare a site to construct a building or other improvement pursuant to a building permit lawfully issued under chapter 12.04, if applicable, provided that all other permits required by federal, state, or local law or regulation have also been obtained and are displayed to the city enforcement official upon request, **provided such excavated materials are not removed from Homer Spit;**

d. of insignificant quantity.

~~19.12.040 Excavation or removal of gravel -- exemptions. The city, the State of Alaska, the United States, and any agency or political subdivision of any of them shall be exempt from the requirements of this chapter.~~

~~19.12.040~~19.12.050 Import and export of gravel -- import-export permit required. a. Import-export materials may shipped to, placed on, and exported from the Homer Spit only pursuant to an import export permit issued by the city enforcement official.

b. The importer or exporter shall submit an application that describes the type and quantity of the material, the location where such material will be stored, the dates of arrival and departure, and the person who shall be liable for compliance with the terms of the permit.

c. The city enforcement official shall impose such conditions on the permit as may be reasonably necessary to ensure that only import-export materials are exported from the Homer Spit, to ensure that the import-export materials are removed from the Homer Spit within a reasonable length of time, and to protect the public health and safety. If the application is insufficient or if the enforcement official determines it is not possible to issue a permit with conditions that will satisfy this subparagraph, the import-export permit shall be denied.

d. The fee for an import-export permit shall be established by resolution.

e. It is unlawful to ship import-export materials to, place them on, or export them from the Homer Spit without an import export permit issued under this chapter.

f. It is unlawful to violate the terms of an import-export permit issued under this chapter.

~~19.12.050~~19.12.060 Import-export permit -- review of denial. Any person whose application for an import-export permit is denied or granted on conditions shall be entitled to a review of such denial or conditions by the city council. A request for review shall be in writing and submitted to the city clerk within ten days of such denial or issuance of a permit on conditions. The city clerk shall promptly submit the matter to the city council, which may affirm the enforcement officer's action, or approve the permit on such conditions as the city council determines will satisfy subparagraph 19.12.050(c), or take such other action as the city council determines is appropriate.

~~19.12.060~~19.12.070 Enforcement. This chapter shall be enforced by the city manager or by the city manager's designee pursuant to a written delegation of enforcement authority.

~~19.12.070~~ ~~19.12.080~~ Violation--penalties and remedies. a. The city enforcement official may issue a cease and desist order against any violation of this chapter or any permit issued under this chapter. Failure to obey a cease and desist order is unlawful.

b. Any act declared unlawful by this chapter shall be punishable under the general penalty provision of the city code.

c. For any violation of this chapter or any ~~penult~~ permit issued under this chapter, the city may seek and obtain any remedy available under section 1.16.020.

Section 2. 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 \_\_\_\_\_, 1998.

CITY OF HOMER

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JACK CUSHING, MAYOR

ATTEST:

\_\_\_\_\_  
MARY L. CALHOUN, CMC, CITY CLERK

AYES:   
NOES:   
ABSTAIN:   
ABSENT:

First Reading: 04/27/98  
Public Hearing: 05/11/98  
Second Reading: 06/08/98  
Effective Date: *failed*

Reviewed and approved as to form and content:

\_\_\_\_\_  
PATTI J. WHALIN, CITY MANAGER

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GORDON J. TANS, CITY ATTORNEY