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CITY OF HOMER
HOMER, ALASKA
ORDINANCE 99-16^(A)

City Mgr
VK
Finance
City Attorney

AN ORDINANCE AMENDING THE BUSINESS
LICENSE REQUIREMENTS OF CHAPTER 8.02 OF
THE HOMER CITY CODE

THE CITY OF HOMER HEREBY ORDAINS:

Section 1. Homer City Code Chapter 8.02, entitled General Business License,
is hereby amended as follows:

8.02.010 Business license - required. a. For the privilege of engaging
in business in the city, a person shall first obtain a business license and pay the
prescribed license fee. A separate license shall be obtained for each separate
business name under which the person does business in the city. A license
covers all of the business operations in the city conducted under the business
name indicated on the license at the locations indicated on the license;
~~regardless of the number of its establishments.~~

b. A person engaging in a business subject to other licensing provisions
under this code must, in addition to obtaining the license required by this
section, comply with those other licensing provisions before engaging in
business in the city.

c. To qualify for the issuance of a business license, the applicant must:

1. pay the applicable business license application fee;
2. have received or applied for a valid state business license when
such a license is required by state law;
3. possess a valid Kenai Peninsula Borough sales tax license when
such license is required by law;
4. have an applicable federal or state occupational license when such
license is required by federal and/or state law;
5. have all permits required by any other sections contained in this
code;

38 6. have written verification from the city finance department that all
39 accounts for utilities, taxes, assessments, and other city charges are
40 current.

41 7. have verification from the Kenai Peninsula Borough that all sales
42 and property tax accounts are current.

43 8. have made proper arrangements for all necessary utilities at all
44 business locations.

45
46 d. A business license may not be sold, assigned, transferred, or otherwise
47 conveyed. If a person ceases to engage in business or changes the business
48 name or nature, the license expires.

49
50 8.02.20 Business license - application.

51 a. A person shall apply for a business license on forms prescribed by the city
52 manager. The application must include:

- 53 1. the name and address of the licensee;
54 2. the line of business to be conducted in the city;
55 3. the name under which the licensee will conduct business;
56 4. the address and local phone number(s) of all business locations in the
57 city;
58 5. the name and address of (i) the owners of the business if it is a sole
59 proprietorship, partnership, or joint venture, or (ii) the officers of the
60 business if it is a corporation, limited liability company, or other
61 business entity;
62 6. a copy of the licensee's current Alaska business license; and
63 7. all other information the city manager deems necessary to keep a
64 current record of the business activity conducted in the city.

65
66 b. Each business license application shall be accompanied by:

- 67 1. the applicable business license fee;
68 2. proof that the applicant has met all of the qualification
69 requirements of Section 8.02.010 c.

70
71 c. An incomplete application will be rejected and the application fee
72 returned. Rejection of an incomplete application is not a denial of an
73 application and cannot be appealed.

74
75 8.02.23 Business license - review of application; issuance; denial.

76 a. Upon receipt of a complete application, accompanied by the application
77 fee, the city manager shall review the application and may consult with
78 appropriate officials to determine whether the information in the
79 application is accurate and complete and to determine whether the
80 applicant meets the requirements for issuance of a license.

81
82 b. If the city manager determines that the applicant meets all
83 requirements, a business license will be issued.

84
85 c. If the applicant does not meet all of the requirements, the city manager
86 will issue a written denial that will include the grounds for denial. The
87 application fee will not be refunded. If the application is denied on grounds
88 that the city manager believes could reasonably be corrected within 14
89 days, the city manager may issue a temporary license valid for 14 calendar
90 days to give the applicant time to reapply. In such case, no additional
91 application fee is required. If no completed reapplication is submitted
92 within the 14 day period, or if the reapplication is denied, the applicant
93 must then immediately cease engaging in business.

94
95 d. The denial of a completed application for a business license may be
96 appealed to the city council under Section 8.02.090.

97
98 8.02.30 Business license - renewal; amendment.

99 a. A business license issued under this chapter is good for the calendar
100 year for which it is issued, except a license issued in December is good for
101 the remainder of the calendar year and the succeeding year. An
102 application for renewal of an existing license must be filed prior to January
103 1 renewed prior to January 15 of the succeeding calendar year, except a
104 seasonal business that operates only during the months of May through
105 September must file a renewal application no later than April 1 of the
106 succeeding calendar year. An application for renewal shall comply with
107 section 8.02.020 and will be treated in the same manner as an original
108 application.

109
110 b. A business license must be amended if the information furnished on the
111 application has changed. A completed application for amendment of an
112 existing license must be filed not later than 10 days after the change in
113 information.

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8.02.040 Business license - fees. The fees for the application for issuance, renewal, and amendment of a license shall be set by city council resolution. The fees are non-refundable.

8.02.50 Display; inspection.

a. A license issued under this chapter shall be prominently displayed in the licensee's primary business location in the city. If licensee has more than one business location in the city, a true and complete copy of the license ~~shall~~ may be displayed in the additional location(s). If the licensee has no fixed business location in the city, the licensee shall carry the license on his person while engaging in the business activity.

b. A licensee shall upon request produce the license for inspection by any city official, law enforcement officer, or any other person with whom the licensee has or may conduct business.

8.02.060 Regulations. The city manager may adopt regulations, approved by the city council, to implement this chapter.

8.02.70 Applicability of chapter.

a. This chapter applies ~~only~~ to the following:

1. fisheries business.
2. all other business except those exempt under subparagraph b.

b. The following are exempt from the requirements of this chapter:

1. commercial fishing under a valid commercial fishing license, but this exemption does not extend to the activity of conducting fish sales to the public or to providing fishing charter services to the public;
2. supplying services as an employee;
3. casual and isolated sales of goods or services by a seller who does not regularly engage in the business of selling goods or services in the city or elsewhere, and the sales do not occur for more than 14 days in a calendar year;
4. federal, state, and local governments and agencies.

152 8.02.80 Suspension or revocation of license.

153 a. The city manager may revoke, suspend, or otherwise restrict a license
154 issued under this chapter for any of the following reasons:
155

156 1. the licensee made a false or misleading statement or
157 representation in connection with the application for a business
158 license;

159 2. the licensee has violated any provision of this chapter or
160 regulations issued hereunder or the terms or conditions of the
161 business license, including without limitation, any restrictions
162 previously placed on the license;

163 3. the licensee has performed or permitted the performance of an
164 act on the business premises or in connection with the licensed
165 business that is contrary to law, ordinance, or regulation and
166 endangers the public health, morals, safety or welfare;

167 4. the licensee is conducting the business at a location other than
168 indicated on the current business license;

169 5. the licensee is conducting business in an area contrary to the
170 zoning code or on public or private property without the owner's
171 permission.

172 6. the licensee has sold, assigned, transferred or otherwise conveyed
173 the business license to another person, or has attempted to do so;

174 7. the licensee knowingly or willfully permits, allows, directs or
175 otherwise sanctions the violation of any provision of this code or city
176 regulations by the licensed business;

177 8. the licensee fails to remit delinquent sales taxes, penalty and
178 interest within thirty (30) days after notice of such delinquency is
179 given or mailed.
180

181 b. Except as provided by subsection / below, no decision of the city
182 manager to revoke, suspend or otherwise limit or restrict a business license
183 shall be effective until the licensee is first given the opportunity for a
184 hearing before the city manager. The city manager shall give written
185 notice to licensee of his or her intent to consider revocation, suspension or
186 any other limitation or restriction of a business license.
187

188 c. The licensee's request for a hearing must be in writing, signed by the
189 licensee (or counsel for the licensee) and delivered to the city clerk within

190 15 days of giving of the notice of intent under subparagraph b. Licensee's
191 failure to request a hearing within the time and in the manner provided
192 shall be deemed a waiver of licensee's appeal rights, including any
193 appellate review to which licensee might have otherwise been entitled, and
194 in such event the city manager's decision is final and unappealable.

195
196 d. If the licensee duly makes a request for hearing, the city manager will
197 hold a hearing within 15 days from date of receipt of the request, except in
198 the case of a license revoked under subparagraph l, in which case the
199 hearing will be held within five working days. The city manager may upon
200 written request extend the hearing date, but no extension of more than
201 thirty days shall be granted. The city manager shall notify the licensee of
202 the date, time and place of the hearing

203
204 e. The licensee, at his or her sole expense, may be represented by counsel.

205
206 f. The hearing shall be open to the public. The proceedings shall be tape
207 recorded. Upon written request, the licensee is entitled to a copy of the
208 tape at no charge.

209
210 g. All testimony shall be under oath. The city manager or other person
211 designated to conduct the hearing (the "hearing officer") is authorized to
212 take the oath of the witnesses. The licensee or licensee's representative
213 may examine witnesses. The hearing officer or a representative of the city
214 may also examine witnesses. Exhibits may be introduced. The formal rules
215 of evidence do not apply. Irrelevant or unduly repetitious evidence may be
216 excluded by the hearing officer. The factual record is closed at the close of
217 the hearing. The hearing officer may continue the hearing for good cause.

218
219 h. The order of presentation will be:

- 220
221 1. Brief opening statement by the city;
222 2. Brief opening statement by the licensee, which is optional;
223 3. Presentation of evidence by city;
224 4. Presentation of evidence by licensee;
225 5. Rebuttal as necessary;
226 6. Argument by city;
227 7. Argument by licensee;

228 8. Rebuttal argument by city.

229
230 i. The city has the burden of proof by a preponderance of the evidence in
231 any proceeding initiated by the city to revoke, suspend, or otherwise
232 restrict a license issued under this chapter.

233
234 j. Within ten working days from the conclusion of the hearing, the hearing
235 officer shall render a written decision that will be effective immediately or
236 according to its terms. The decision shall include a statement of grounds
237 supporting the decision or action. The decision is final and appealable as
238 provided in subparagraph k. The city clerk shall mail or deliver a copy of
239 the decision to the licensee.

240
241 k. The decision of the hearing officer may be appealed to the Homer City
242 Council. A written notice of appeal must be filed with the city clerk within
243 thirty days of the date the city clerk gives licensee a copy of the hearing
244 officer's decision. Three days will be added if the city clerk mailed the
245 decision to the licensee. The licensee's failure to file a written notice of
246 appeal within this time constitutes a waiver of all appeal rights.

247
248 l. The city manager may, without prior warning, notice or hearing,
249 suspend or restrict any business license if the city manager makes a written
250 determination that such action is necessary to eliminate an immediate and
251 substantial danger to the public health, safety or welfare. Such action shall
252 be effective five days after the certified mailing of written notice to the
253 licensee and shall remain in effect for no more than 60 days. The licensee
254 may at any time request a hearing under subparagraph c. A suspension or
255 restriction of a business license under this subparagraph / shall not be
256 extended beyond 60 days unless a hearing is held under this section.

257
258 8.02.90 Appeals.

259 a. The following may appeal an adverse decision of the city manager to the
260 city council:

- 261
262 1. Any person denied a business license;
263 2. Any licensee whose business license has been suspended,
264 restricted, or revoked.

266 **b. The appellant shall file a written notice of appeal with the city clerk**
267 **within 30 days from the date of the city manager's adverse decision**
268 **regarding a business license. The notice shall specify all of the grounds for**
269 **such appeal and refer to specific evidence in the record supporting the**
270 **appellant's position.**

271
272 **c. After the appeal has been filed, the city clerk will prepare and forward**
273 **to the city council a record on appeal consisting of the written decision, the**
274 **notice of appeal, all evidence considered by the city manager or hearing**
275 **officer, the tapes of the hearing, the application or business license in**
276 **question, the notice of intent to consider revocation, suspension, or other**
277 **restriction, and all documents considered by the city manager or hearing**
278 **officer in making the decision that is the subject of the appeal. The record**
279 **on appeal will be made available for public inspection and copying.**

280
281 **d. The city clerk shall assign a date for the hearing and give not less**
282 **than seven days' written notice to the appellant and the city manager.**

283
284 **e. At the hearing, all parties may be represented by counsel and may**
285 **offer additional witnesses and exhibits. The burden of proof rests with the**
286 **appellant.**

287
288 **f. Within 30 days following the conclusion of the hearing, the city**
289 **council shall issue a written decision that will include findings of facts and**
290 **conclusions of law and clearly state the grounds upon which the decision is**
291 **based. The appellant may appeal a decision of the city council to the**
292 **superior Court within 30 days of the city clerk's distribution of the written**
293 **decision in accordance with the Rules of Appellant Procedure of the State**
294 **of Alaska.**

295
296 **8.02.1008-02.080 Violations; penalties.**

297 a. It is a violation of this chapter to:

- 298
299 1. engage in business in the city without obtaining, renewing, or
300 amending a business license as required by this chapter.
301 2. provide false ~~or misleading~~ information on an application or obtain
302 ~~for a business license, renewal, or amendment~~ by other fraudulent or
303 deceptive means.

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3. refuse or fail to produce a business license for inspection upon the request of any person entitled to inspect it.
4. fail to prominently display the business license in the licensee's business locations in the city or to carry the license on the person if the licensee has no fixed business location in the city.
5. violate any regulation adopted to implement this chapter.

b. Upon conviction of any violation of this chapter, a defendant is subject to the penalties authorized in Section 1.16.010.

8.02.1108.02.090 Civil penalties; remedies.

a. The city manager may assess a civil penalty against a person required to have a license under this chapter who:

1. engages in business in the city without obtaining, renewing, or amending a business license as required by this chapter.
2. provides false or misleading information on an application for a business license, renewal, or amendment.
3. refuses or fails to produce a business license for inspection upon the request of any person entitled to inspect it.
4. fails to prominently display the business license in the licensee's business location in the city or to carry the license on the person if the licensee has no fixed business location in the city.
5. violates any regulation adopted to implement this chapter.

b. The civil penalty for a violation of subparagraph (a) of this section may not exceed \$100 the first time a civil penalty is assessed, \$200 for a second assessment, \$400 for a third assessment, and \$1,000 for a fourth or subsequent assessment.

c. In addition to assessment and collection of a civil penalty under this section, the city may obtain injunctive or compensatory relief, or both, under Section 1.16.020.

8.02.1208.02.100 Definitions. In this chapter, unless the context otherwise requires:

"business" means a for profit or nonprofit entity or person engaging or offering to engage in a trade, a service, a profession, or an activity with the goal of receiving a financial benefit in exchange for the provision of services, or goods, or other property.

"city manager" means the City Manager of Homer or any person city employee designated by the city manager to perform one or more of the functions of the city manager under this chapter.

"fisheries business" means a business that engages in processing fisheries resources.

"fisheries resources" has the same meaning as in 15 AAC 75.300.

"hearing officer" means the city manager or other person designated by the city manager to conduct a hearing under Section 8.02.080.

"person" has the same meaning as in Section 1.04.020.

"processing fisheries resources" means any activity that modifies or preserves the physical condition of a fisheries resource, including without limitation, butchering, freezing, salting, cooking, canning, dehydrating, smoking, decapitating, gutting, gilling, sliming, icing, or other activities performed in preparing fisheries resources for further processing, for subsequent sale, or to maintain the quality of the fresh resource, regardless of whether the processor owns the fisheries resources and regardless of whether the processor is the seller in the subsequent sale of the fisheries resources. Notwithstanding the foregoing, "processing fisheries resources" does not include decapitating shrimp and gutting, gilling, sliming, or icing a fisheries resource solely for the purpose of maintaining the quality of the fresh resource when done by a licensed commercial fisherman on the commercial fishing vessel that caught the fisheries resources.

Section 2. This ordinance is of a permanent and general character and shall be included in the City code.

378 ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER,
379 ALASKA, this ____ day of _____, 1999.

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CITY OF HOMER

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Jack Cushing, Mayor

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387 ATTEST:

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390 Mary L. Calhoun, City Clerk

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392 AYES:

393 NOES:

394 ABSTAIN:

395 ABSENT:

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397 First Reading:

398 Public Hearing:

399 Second Reading:

400 Effective Date:

401

402 Reviewed and approved as to form:

403

404

405 Ron Drathman

406 City Manager

Gordon J Tans

City Attorney