



# City of Homer

[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

## Office of the City Clerk

491 East Pioneer Avenue  
Homer, Alaska 99603

[clerk@cityofhomer-ak.gov](mailto:clerk@cityofhomer-ak.gov)

(p) 907-235-3130

(f) 907-235-3143

## ADMINISTRATIVE HEARING REQUEST FORM

Name

Phone

Cell:

Address:

City

ST

Zip

Email:

Fax:

Vehicle Citation

Vehicle Impoundment/Booted

Other

This Request is for a Hearing for a:

Vessel Impoundment

Vessel Impoundment - Nuisance

Date:

Signature: \_\_\_\_\_

### Statement of Reason for Hearing

Describe in detail the specific allegation of error in regards to the citation or impoundment.

Vehicle/Vessel ID:

Date of Incident:

Location:

Reason for Hearing:

### Office Use Only

Received by the City Clerk's Office: \_\_\_\_\_

Forwarded to City Manager: \_\_\_\_\_ Copy to Department: \_\_\_\_\_

In Accordance with Homer City Code:

Upon receipt of demand for a hearing the City Clerk shall immediately forward the demand to the City Manager or his designee, who shall schedule an administrative hearing and notify all parties.

#### Appeal from Port and Harbor citation issued pursuant HCC Chapter 10.04.115

- A person who has been issued a citation for a violation of Homer City Code Title 7 or Homer City Code Title 10 by the City of Homer Harbor Master, or their designee, may appeal that action to the hearing officer designated by the City Manager by completing an Administrative Hearing Request Form and delivering the form to the Homer City Clerk's office no later than 30 days after the issuance of the citation.
- The hearing officer shall schedule an appeal hearing for the next available hearing date after the date of delivery of the Administrative Request Hearing Form to the City Clerk's office.
  - The appeal hearing shall be conducted informally and may be governed by such rules and procedures as the hearing officer may establish, except that:

- Each party has the right to be represented by counsel.
- Each party may present witnesses and evidence.
- Each party and witnesses may appear in person or by telephone.
- Each party may confront and question witnesses.
- The individual receiving the citation may testify in their own defense.
- Each party may subpoena witnesses.
- The hearing shall be open to the public.
- An electronic recording shall be made of the hearing.
- The hearing officer may exercise independent judgment as to the weight of evidence supporting or refuting the notice of violation or impoundment, and may exercise independent judgment on legal issues raised by the parties.
- No later than 30 days following the hearing the hearing officer shall issue a written decision including findings of fact and conclusions of law. Such findings must be reasonably specific so as to provide interested persons and, where appropriate, reviewing authorities, a clear and precise understanding of the reasons for the decision entered. The decision, findings of fact, and conclusions of law shall be forwarded to all parties to the appeal. A final appealable decision must indicate that it is a final order and that a party disputing the decision has 30 days to appeal.
  - A final decision issued under this section may be appealed to the superior court within 30 days after the date the decision was issued. For the purposes of this section the date of issuance is the date upon which the decision was mailed or delivered to the parties. [Ord. 16-42, 2016]

Impounded Vehicles Procedure in accordance with 7.10.070

- The hearing will be held within 48 hours after the filing of a timely written demand, not including Saturdays, Sundays, and City holidays.
- The hearing officer shall not be bound by formal rules of evidence. A copy of the fully completed and signed order of impoundment will constitute prima facie proof of sufficient factual and legal basis for impoundment. The burden will be on the vehicle owner to prove by a preponderance of the evidence that there was an insufficient factual or legal basis for impounding the vehicle.
- A determination by the hearing officer that there was an insufficient factual or legal basis for impounding the vehicle will require the release of the vehicle to the owner or other person entitled to possession without payment of the towing and storage fees, or will entitle the person to a refund if the fees have already been paid.
- The City will be responsible for payment or refund of the towing and storage fees for any vehicle impounded under this chapter if the hearing officer determines that there was an insufficient factual or legal basis for such impoundment. [Ord. [15-42](#) § 4, 2015].

Impounded Vessel Procedure In accordance with 10.04.120

- A hearing shall be conducted before a hearing officer designated by the City Manager within 48 hours of receipt of written demand therefor from the person seeking the hearing unless the person waives the right to a speedy hearing. Saturdays, Sundays and City holidays are to be excluded from the calculation of the 48-hour period.
- The hearing officer shall be someone other than the persons who will direct the impounding and storage of the vessel. The sole issue before the hearing officer shall be whether there is probable cause to impound the vessel in question. "Probable cause to impound" shall mean such a state of facts as would lead a person of ordinary care and prudence to believe that there was a breach of Federal, local or municipal law or regulations, or any agreement entered into pursuant thereto, rendering the vessel subject to impoundment.
- The hearing officer shall conduct the hearing in an informal manner and shall not be bound by technical rules of evidence. The person demanding the hearing shall carry the burden of establishing that such person has the right to possession of the vessel.
- The Harbormaster shall carry the burden of establishing that there is probable cause to impound the vessel in question.
- At the conclusion of the hearing, the hearing officer shall prepare a written decision.
- A copy of such decision and reasons therefor shall be provided to the person demanding the hearing and the owner of the vessel if such owner is not the person requesting the hearing.
- The hearing officer's decision in no way affects any criminal proceeding connection with the impound in question and any criminal charges involved in such proceeding may only be challenged in the appropriate court.
- The decision of the hearing officer is final and may only be appealed to the Superior Court.
- Failure of the owner or operator to request or attend a scheduled pre-impoundment hearing shall be deemed a waiver of the right of such hearing. [Ord. [95-18\(S\)](#), 1995; Ord. [88-2](#), 1988]



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## ADMINISTRATIVE HEARING REQUEST FORM

City Manager:

Hearing Officer(s) Appointed by City Manager: \_\_\_\_\_

Hearing Scheduled for Date & Time: \_\_\_\_\_

Copy distributed to Requestor (Date): \_\_\_\_\_

Copy provided to City Clerk's Office: \_\_\_\_\_

Copy provided to Department: \_\_\_\_\_