

CITY OF HOMER  
HOMER, ALASKA

Venuti/Hansen-Cavazos

ORDINANCE 22-15(S)(A)

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA  
AMENDING HOMER CITY CODE CHAPTER 8.11 MOBILE FOOD  
SERVICE.

WHEREAS, Chapter 8.11, adopted in 1983, is in need of a rewrite to reflect current regulations and health, welfare and safety concerns; and

WHEREAS, The permitting and tracking responsibility for Mobile Food Service permits will change from the Police Department to the City Manager or designee; and

WHEREAS, Chapter 8.11.080 Violation and Penalty, and 8.11.085 Appeal of Decision have been updated to be consistent with current city codes and policies; and

WHEREAS, Changes to Chapter 8.11 will result in regulation that allows for streamlined administration and enforcement.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code Chapter 8.11 Mobile Food Service is hereby amended as follows:

Chapter 8.11  
MOBILE FOOD SERVICE

Sections:

8.11.010 ~~Applicable State law incorporated.~~ **Intent**

8.11.020 Definition.

8.11.030 ~~License Required.~~ **Permit Required**

**8.11.035 General standards**

8.11.040 ~~License Application Contents.~~ **Permit - Application - Referral - Fees.**

8.11.050 ~~License Application Referral Fees.~~ **Permit Terms**

8.11.060 ~~Applicability and incorporation by reference of sections of Chapter 8.08 HCC.~~

8.11.070 ~~Conduct of business.~~

8.11.080 Violation - Penalty.

**8.11.085 Appeal of Decision**

8.11.010 ~~Applicable State law incorporated.~~ **Intent**

~~All statutes of the State of Alaska and any rules or regulations adopted by any State agency pertaining to public nuisances, food and food service establishments, public health and~~

~~Strike out~~ is deleted language, **bold underline** is new language



43 ~~public sanitation applicable to a mobile food service, with particular reference but not~~  
44 ~~limited to AS Titles 17 and 18, as amended, and 18 AAC 31.600 et seq., as amended, are~~  
45 ~~incorporated by this reference as though fully set forth in this chapter.~~

46  
47 **The intent of this chapter is to safeguard and protect the general health and safety of the**  
48 **public within the City of Homer, while allowing and regulating mobile food service**  
49 **operations which may be beneficial to the City and its residents.**

50  
51 8.11.020 Definition.

52 For the purpose of this chapter, “mobile food service” means a self-contained food service  
53 establishment that is designed to be readily moveable from location to location, without  
54 being permanently affixed to any site or permanently connected to any water or sewer utility  
55 service.

56  
57 8.11.030 ~~License~~**Permit** – Required.

58 No person may operate a mobile food service as defined in this chapter within the City  
59 without first obtaining a mobile food service license **permit** from the Homer Police-  
60 Department **City Manager or designee**.

61  
62 **a. Exemptions. The permitting requirements of this chapter do not extend to the**  
63 **following instances:**

64 **1. Isolated or casual sales of personal goods, wares, vehicles, animals, etc.,**  
65 **or to the sale of similar items at such functions as garage sales, flea markets, and**  
66 **bazaars;**

67  
68 **2. Mobile Food Vendors participating in a special events permitted under**  
69 **HCC 5.46 Special Events, nor to or activities conducted at conferences that cater to a**  
70 **specialized audience;**

71  
72 **3. A commercial fisherman who has a valid commercial fishing license issued**  
73 **by the State of Alaska and who has completed and filed with Alaska Department of Fish**  
74 **and Game the forms required to qualify as a “catcher-seller” shall be exempt from this**  
75 **chapter.**

76  
77 **8.11.035 General standards**

78  
79 **The following general standards shall apply as requirements for the operation of mobile**  
80 **food service in the City of Homer. The owner/operator of the mobile food service shall:**

81  
82 **1. Be registered to collect sales tax with the Kenai Peninsula Borough and be**  
83 **current on all sales tax remittances;**

84



- 85 **2. Have obtained permission from the property owner where operating;**  
86  
87 **3. Be located in a zone district in which mobile food service is a permitted use, or in**  
88 **any specific location authorized as part of an approved special event permitted under**  
89 **HCC 5.46;**  
90  
91 **4. Not create hazardous traffic patterns for vehicles or pedestrians;**  
92  
93 **5. Not diminish the ability of others to conduct business, through excessive noise,**  
94 **odor, or other occurrence;**  
95  
96 **6. Provide for the collection and removal of all waste from the site at the end of**  
97 **each day of operation;**  
98  
99 **7. Be in accordance with the regulations found in the City's Sign Code, HCC 21.60;**  
100  
101 **8. Post in a conspicuous place, able to be observed by the general public, both their**  
102 **State of Alaska Business License, permit issued from the Alaska Department Division of**  
103 **Environmental Health (for mobile food services involved in the preparation of foods or**  
104 **beverages) and the mobile food service permit issued by the City of Homer (if**  
105 **applicable);**  
106  
107 **9. Ensure that, with the exception of generators, all operations, merchandise and**  
108 **services provided by and related to the mobile food service be contained in or attached**  
109 **to the unit.**  
110  
111 **10. If authorized to operate in a right-of-way or on City property, hold a certificate of**  
112 **insurance indicating that the owner/operator's operation of a mobile food service is**  
113 **covered by liability insurance that meets or exceeds the following:**  
114

<b><u>Personal Injury (each occurrence)</u></b>	<b><u>\$100,000</u></b>
<b><u>Aggregate Products (each occurrence)</u></b>	<b><u>\$100,000</u></b>
<b><u>Property Damage (each occurrence)</u></b>	<b><u>\$50,000</u></b>

115  
116 8.11.040 License—Application—Contents. **Permit - Application - Fees.**  
117

118 Every application for a mobile food service license shall contain the information required for  
119 applications for a license under HCC 8.08.030 and, in addition, every applicant shall submit:



120  
121 a. Proof satisfactory to the Homer Police Department that the applicant has obtained the  
122 necessary licenses and permits from all governmental agencies having jurisdiction over such  
123 business. The applicant shall submit a copy of his State business license with the application.

124  
125 b. Documentary proof to the Homer Police Department indicating that the mobile food  
126 service is covered by liability insurance as follows:

- 127 1. Personal injury (each occurrence), \$100,000;
- 128 2. Aggregate products (each occurrence), \$100,000;
- 129 3. Property damage (each occurrence), \$50,000.

130  
131  
132 c. In addition to such proof of insurance, the applicant shall agree in writing to hold the City  
133 harmless against all claims of whatever kind including any legal defense costs resulting from  
134 the business activities carried on under the mobile food service license.

135  
136  
137 **Unless waived by the City Manager as part of a permitted special event under HCC 5.46,**  
138 **a valid permit is required prior to operating a mobile food service in the City. An**  
139 **application for a mobile food service permit shall be submitted to, and approved by, the**  
140 **City of Homer and shall contain the following:**

- 141 **1. Completed application form, as provided by the City of Homer;**
- 142
- 143 **2. Application Permit fee as set out in the City of Homer Fee Schedule;**
- 144
- 145 **3. If operating in a right-of-way or on City property, proof of insurance;**
- 146

147 8.11.050 License Application Referral Fees. **Permit Terms.**

148  
149 a. Upon receipt of the application described in HCC 8.11.040, the original shall be referred to  
150 the Chief of Police or designee who shall carry out an investigation, and approve or  
151 disapprove such application under the procedures set forth in HCC 8.08.040.

152  
153 b. For each license issued under this chapter, the fee shall be the amount as set forth in the  
154 most current City of Homer fee schedule annually. All licenses expire on December 31st of the  
155 year issued.

156  
157 **The mobile food service permit shall expire at the end of the calendar year of issuance.**

158  
159  
160



161 ~~a. **Revocation for Noncompliance. The City Manager, or designee, may revoke a**~~  
162 ~~**mobile food service permit if it is determined that the conduct of the operation(s) is not**~~  
163 ~~**in compliance with either the terms and conditions of the permit, or the provisions of**~~  
164 ~~**the Municipal Code. The permit may be revoked immediately, including during the**~~  
165 ~~**operation of the mobile food service.**~~

166  
167 8.11.060 ~~Applicability and incorporation by reference of sections of Chapter 8.08 HCC.~~  
168 ~~HCC 8.08.050, 8.08.070, 8.08.080, 8.08.100, 8.08.110, 8.08.120 and 8.08.140 are incorporated~~  
169 ~~by this reference and shall apply to licenses obtained under this chapter. [Ord. 83-10(S) § 1,~~  
170 ~~1983].~~

171  
172 8.11.070 ~~Conduct of business.~~

173  
174 a. ~~A mobile food service may be operated in conformity with the Homer Zoning Code, from:~~

175  
176 1. ~~Private property or leased land, provided the owner or lessor has first granted permission~~  
177 ~~in writing to the operator.~~

178  
179 2. ~~Public streets, alleys or rights of way at least 15 feet from the traveled portion thereof, for~~  
180 ~~a period not exceeding 24 hours. The Chief of Police or designee may grant permission to~~  
181 ~~operate for a longer period of designated time.~~

182  
183 b. ~~A mobile food service may not be operated in front of or immediately adjacent to an~~  
184 ~~established business offering the same or similar commodities from a fixed location, unless a~~  
185 ~~designated vendor parking area has been named.~~

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

189  
190 d. ~~On the Homer Spit, no licensee shall be permitted to operate in any congested area, to~~  
191 ~~include areas designated as public parking, campgrounds, parks or open space or where his~~  
192 ~~operation might impede or inconvenience the public.~~

193  
194 8.11.080 Violation - Penalty.

195 ~~The penalty for an offense in this chapter is the fine listed in the fine schedule in HCC~~  
196 ~~1.16.040. If no fine is listed for the offense in HCC 1.16.040, then the defendant must appear in~~  
197 ~~court and, if convicted, is subject to the general penalty as provided in HCC 1.16.010 unless~~  
198 ~~another penalty is specifically provided.~~

199  
200 ~~**The following actions are unlawful and considered a minor offense as defined in HCC**~~  
201 ~~**1.16.040:**~~

202



- 203 **1. Operating a mobile food service without obtaining a valid city mobile food**  
204 **service permit or special event waiver under HCC 5.46;**  
205 **2. Operating a mobile food service in violation of any of the general standards set**  
206 **forth in HCC 8.11.035;**  
207  
208 **3. Selling or attempting to sell food and/or beverage, merchandise or other services**  
209 **on foot or from a motor vehicle, trailer, tent or other temporary facility that does not**  
210 **qualify as a mobile food service and is not exempted in HCC 8.11.030.**

211  
212 **The owner, agent, or contractor of a mobile food service where a violation has been**  
213 **committed or exists, shall be punished by a fine may be fined as provided in HCC**  
214 **1.16.040. Each and every day that the violation continues shall be deemed a separate**  
215 **and distinct violation. All remedies and penalties provided for in this chapter shall be**  
216 **cumulative and not exclusive.**

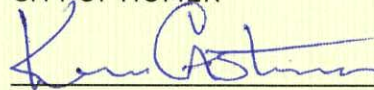
217  
218 **8.11.085 Appeal of Decision.**

219 **Judicial review by the superior court of a final decision on a mobile food service permit**  
220 **issued by the City may be had by filing a notice of appeal in accordance with the**  
221 **applicable rules of court governing appeals in civil matters. The notice of appeal shall be**  
222 **filed within 30 days of notice of the final decision on the permit. Appeals of mobile food**  
223 **service permits are heard solely on the administrative record which shall be prepared**  
224 **by the City. A copy shall be filed in the superior court within 30 days after the appellant**  
225 **pays the estimated cost of preparing the complete or designated record or files a**  
226 **corporate surety bond equal to the estimated cost.**

227  
228 Section 2. This ordinance is of a permanent and general character and shall be  
229 codified in Homer City Code.

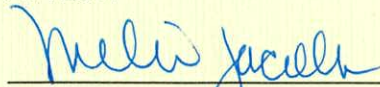
230  
231 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this this 29<sup>th</sup> day of March, 2022.

232  
233 CITY OF HOMER

234 

235  
236 KEN CASTNER, MAYOR

237  
238 ATTEST:

239 

240  
241 MELISSA JACOBSEN, MMC, CITY CLERK

242

243 YES: 6

244 NO: 0



245 ABSENT: 0

246 ABSTAIN: 0

247

248 First Reading: 3.14.22

249 Public Hearing: 3.29.22

250 Second Reading: 3.29.22

251 Effective Date: 3.30.22