

# KETCHIKAN GATEWAY BOROUGH

## ORDINANCE NO. 1708 AMENDED

**An Ordinance of the Assembly of the Ketchikan Gateway Borough Amending KGBC 1.25.050 Fine Schedule and Adopting a new Chapter 4.17 KGBC (Economic Development – Herring Cove) by Adding Several Sections of Code Creating a Herring Cove Tourism Management Program**

### RECITALS

- A. WHEREAS**, the Borough Assembly authorized the Department of Planning and Community Development to conduct a study of tourist impacts to the Herring Cove area. This study found numerous health and safety issues related to the visitor activity at the Herring Cove area. Therefore, the Borough Assembly finds that action must be taken to ensure the health and safety of visitors to, and residents of, the Herring Cove area; and
- B. WHEREAS**, the Borough Assembly finds that any potential accident associated with tourism activities at Herring Cove could result in a negative reputation for that area and for the greater Ketchikan community amongst the passengers on cruise ships, which in turn would negatively impact the local tourism industry, and further, could impair the economic development activity generated by local tourism; and
- C. WHEREAS**, the Borough Assembly finds that the Herring Cove Tourism Management Program will promote public health and safety of tourists that visit the Herring Cove area, which is vital for maintaining tourism as a healthy component and priority of the Borough's economy; and
- D. WHEREAS**, the Borough Assembly finds that the Herring Cove Tourism Management Program will help reduce the risk of developing a negative reputation for safety and quality and thereby assist in maintaining the Herring Cove area as a viable tourism destination; and
- E. WHEREAS**, the Borough Assembly finds that the Herring Cove Tourism Management Program will improve the livability of residents of the Herring Cove area; and
- F. WHEREAS**, the Borough Assembly finds that it is appropriate to expend commercial passenger vessel funds for an area-wide power such as economic development; and

- G. WHEREAS**, the Borough Assembly finds that the proposed ordinance is an appropriate use of economic development powers and is in the best interest of the Borough.

**NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KETCHIKAN GATEWAY BOROUGH;** as follows:

**Section 1.** That section, KGBC 1.25.050 Fine schedule, is hereby amended to include the following offenses :

<b>Code Section</b>	<b>Offense</b>	<b>Penalty/Fine</b>
<u>4.17.090(a)(1)</u>	<u>Operating without the required certificate and/or permit</u>	<u>\$200</u>
<u>4.17.090(a)(2)</u>	<u>Violating a specific requirement of the certificate/permit</u>	<u>\$100</u>

**Section 2.** That the KGB Code is hereby amended by adding a new Chapter 4.17, (Economic Development – Herring Cove) to to reads as follows:

#### Chapter 4.17 Economic Development – Herring Cove

4.17.010. Definitions. As used in this chapter, the following terms mean:

- (a) *Company Certificate*. A written certificate of public convenience and necessity issued in association with a public vehicle permit, authorizing the holder thereof to conduct a public vehicle business within the Herring Cove area.
- (b) *Department*. Means the department of planning and community development or successor agency.
- (c) *Program Area*. The area established as part of the Herring Cove Tourism Management Area, as depicted in exhibit A.
- (d) *Herring Cove Public Safety Training Certificate*. Certificate obtained after completion of the Herring Cove Public Safety Training course conducted by the borough.
- (e) *Herring Cove Public Safety Course*. A public safety training course conducted by the borough for tour companies that work within the program area. This course is required for all drivers and tour guides that work within the program area.

- (f) *Holder*. A person to whom a certificate or permit has been issued.
- (g) *Program*. The short name of the Herring Cove Tourism Management Program as established within this chapter.
- (h) *Public Vehicle*. A vehicle offered for commercial passenger service on public streets in which the driver is furnished by the owner or holder. The term public vehicle includes, but is not limited to, taxicabs and sightseeing vehicles. Vehicles operated by or providing services under contract to the borough or the school district are not included in this definition and are not subject to the provisions of this chapter. Vehicles operated by another municipality in the borough and vehicles which are being operated under contract to another municipality in the borough are not subject to the provisions of this chapter unless they are operated as sightseeing vehicles. Courtesy vehicles, which are operated by or under contract with a business which is not otherwise engaged in commercial passenger service on public streets and which are used solely to provide incidental transportation for the business' customers or employees to or from the place where the primary business or employment occurs, are not public vehicles unless the customer or employee is separately charged for such transportation. Vehicles providing transportation to a tour site for an inclusive fee are not providing incidental transportation and are not courtesy vehicles for purposes of this ordinance. Vehicles operated by or under contract with nonprofit organizations are not public vehicles when such vehicles are directly used in the course of providing religious, educational or charitable services which are exempt from the borough's sales tax. A vehicle is offered for commercial passenger service if the owner or operator advertises for, solicits or otherwise seeks out passengers or receives compensation.
- (i) *Public Vehicle Destination*. A destination within or surrounding the program area, other than a specific residence.
- (j) *Public Vehicle Permit*. A permit issued to the owner of the public vehicle and allowing that vehicle to operate within the Herring Cove Tourism Management Area.
- (k) *Sightseeing Vehicle*. A public vehicle which provides pre-arranged group transportation service or which transports passengers on guided tours of cultural, natural, or historic sites. Tour passengers must be transported in groups with no passengers added after the tour begins and no passengers departing until the tour is completed. A shuttle service or other transportation which primarily transports passengers to or from commercial areas or transportation facilities is not a sightseeing vehicle. A vehicle which is advertised as available for tours shall be considered a sightseeing vehicle and shall operate as required under this paragraph.

(l) *Taxi Service.* One way transportation to or from a residence or business in or surrounding the Herring Cove Tourism Management Area, not for purposes of sightseeing. This service is exempt from the requirements of this chapter.

(m) *Vehicle.* Every device in, upon or by which any person may be transported or drawn upon a highway excepting vehicles used exclusively upon stationary rails or tracts.

#### 4.17.020. Herring cove tourism management program

(a) The program area is established as defined in KGBC 4.17.010 (b).

(b) Program Purpose and Goals:

(1) Purpose – To manage the tourism activity within the Herring Cove area to preserve the economic development value of the area for the borough and to ensure the health, safety and welfare of visitors and residents of the area.

(2) Goals

a. Promote the public health and safety of tourists that visit the Herring Cove area.

b. Maintain the Herring Cove area as a viable tourism destination within the Ketchikan Gateway Borough.

c. Improve the livability of the Herring Cove area for residents.

(c) Program Description – The program manages tourist activity at Herring Cove by requiring a certificate and permit for a tour business to operate within the defined program area.

#### 4.17.030. Certificate/permit required

(a) No person shall operate or permit a public vehicle owned or controlled by that person to be operated as a public vehicle upon public streets within the program area without having first obtained a company certificate for the business and a public vehicle permit for each vehicle operating within the program area. No person shall operate a public vehicle or permit a public vehicle owned or controlled by that person to be operated upon the public streets of the program area in any way other than as endorsed on the certificate. It is a violation this chapter for any holder or other person

to operate a public vehicle in any manner other than as defined and provided for in this chapter.

(b) A certificate/permit is not required for taxi service serving residences and businesses in the program area as a pickup/drop-off service.

#### 4.17.040. Certificate/permit- application

(a) Company Certificate – an application for a company certificate shall be filed with the department and shall furnish the following information:

- (1) Name and Address of the owner or authorized owner representative applying for the certificate.
- (2) Number of vehicles operated, including make and model, and vehicle license information.
- (3) Proof of insurance for the vehicle(s).
- (4) Demonstration of City of Ketchikan Public Vehicle License.
- (5) List of drivers and other employees utilized as part of the tour activity.
- (6) A signed copy of Herring Cove Public Safety Training Certificate by all listed drivers and other employees acknowledging that they completed the required training course and that they will abide by the listed rules.
- (7) Signed acknowledgement by the owner(s) of company, or the owner's authorized representative that they understand the rules and provisions of the company certificate and that they will abide by them.

(b) Public Vehicle Permit – an application for a public vehicle permit shall be filed with the department and shall furnish the following information:

- (1) Description of vehicle to be permitted; make, model, and copy of vehicle registration.
- (2) Location of off-street parking space with alternative locations.
- (3) Copy of Public Vehicle Certificate from the City of Ketchikan.

(c) Determination of a complete application by the planning director or designee shall take place within seven business days of submittal of the application. If the application is found incomplete, the planning director or designee shall return the application to the applicant with a list of deficiencies.

#### 4.17.050. Certificate/permit – issuance

Upon determination by the planning director or designee that the applicant for a company certificate and/or public vehicle permit has met the requirements of KGBC 4.17.040, the planning director or designee shall issue the certificate and/or permit to the applicant within seven business days of filing a complete application.

#### 4.17.060. Certificate/permit- term – renewal

Every certificate and permit issued under this chapter shall expire on the last day of December next following its issuance; certificates and permits once issued may be renewed and reissued by the planning director or designee upon application to the department. Holders may apply for renewal no later than thirty days before the certificate or permit expiration date. Certificates or permits will not be renewed unless:

(a) All sales, real and personal property taxes, interest and penalties have been paid to the city and borough.

(b) All fines, penalties, and collection costs due to the borough under KGBC 1.25.050 Fine schedule, of this code where the holder's public vehicle was involved have been paid, unless the vehicle was truthfully reported stolen at the time of the violation or offense.

#### 4.17.070. Certificate/permit – transfer

The value of a certificate/permit is \$1. No company certificate or public vehicle permit may be sold, assigned, leased, or otherwise transferred without the consent of the assembly. Any sale, assignment, lease or transfer of such a certificate or permit without the consent of the assembly is void, and the certificate or permit is forfeited. Prior to forfeiture of any certificate under this section, the parties to any such sale, assignment, lease or transfer shall be sent notification and shall have an opportunity to be heard by the assembly.

#### 4.17.080. Certificate/permit- suspension and revocation

**New wording is underlined—Deleted wording is [CAPITALIZED AND BRACKETED]**

(a) General rule. A certificate/permit issued under the provisions of this chapter may be revoked or suspended by the borough manager if the holder or any partner or principal of the holder has:

(1) Violated any of the provisions of this chapter.

(2) Violated any ordinances of the city or the laws of the United States or the State of Alaska, violations of which reflect unfavorably on the fitness of the holder to offer public transportation.

(3) Failed to maintain its vehicles in safe and legal condition.

(4) When there are any fines, penalties, and collection costs due the borough under KGBC 1.25.050 fine schedule, of this code where the holder's public vehicle was involved, unless the vehicle was truthfully reported stolen at the time of the violation or offense. A certificate suspended or revoked under this subsection may be reinstated upon payment of the amounts due to the borough.

(5) Procedure. The hearing process for suspension or revocation shall be in accordance with Chapter 2.115 KGBC.

#### 4.17.090. Enforcement

(a) Penalties for Violations. For any and every violation of the provisions of this chapter, the owner of the company and public vehicle involved shall be subject to a violation for which upon conviction thereof shall be fined as follows:

(1) \$200 for operating without the required certificate and/or permit.

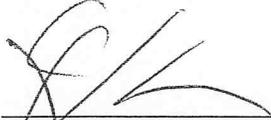
(2) \$100 for violating a specific requirement of the certificate/permit.

(b) Each and every day that such violation continues shall be deemed a separate and distinct violation.

**Section 3.** Effective date. This ordinance is effective as provided in Section 1.15.040 of the KGB Code of Ordinances.

ADOPTED this 17<sup>th</sup> day of March, 2014.

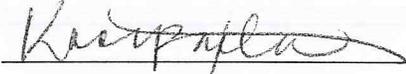
EFFECTIVE the 8<sup>th</sup> day of April, 2014.



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Dave Kiffer, Borough Mayor

ATTEST:



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Kacie Paxton, Borough Clerk

APPROVED AS TO FORM:



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Scott A. Brandt-Erichsen, Borough Attorney

Exhibit A

