

**Title 6  
BUSINESS LICENSES AND REGULATIONS**

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**Chapter 6.19  
REGULATION OF COMMERCIAL OPERATORS SELLING ORGANIZED EXCURSIONS  
OR RENTING EQUIPMENT FOR ORGANIZED EXCURSIONS AND  
LOADING/UNLOADING COMMERCIAL VEHICLES**

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**6.19.010 Introduction.**

Crescent Harbor is owned by the state of Alaska and the city and borough and operated by the city and borough. The city and borough owns property near Crescent Harbor including the tendering facilities, dock, ramps, shelters, and adjoining parking lots. The city and borough also owns Harrigan Centennial Hall (HCH) including the adjoining plaza the adjoining parking lots. The city and borough also owns the dock known as the O'Connell Bridge Tendering Facility including the ramp and adjoining parking lots. The lands and facilities described in this section are the areas subject to this chapter. In adopting this chapter, the city and borough is exercising its proprietary interests as an owner and operator on all city and borough-owned property, including future tendering facilities, as well as its police powers in the interest of public safety and order. Nothing in this chapter, however, limits the city and borough's ability to further exercise its proprietary powers as it deems necessary to protect its interests or those of the public.

**6.19.020 Definitions.**

The following words and phrases, when used in this chapter, have the following meanings:

- A. "Commercial operations involving organized excursions" means any business, commercial entity, or for-profit enterprise offering: tours on foot; tours or trips by a wheeled vehicle, vessel, aircraft, or watercraft propelled by animal power, human power, engines, motors, or other

motive power; any trip or tour involving the taking of one or more passengers for hire for the purpose of sightseeing, fishing, hunting, visits to natural and cultural displays; any other tour as may be offered by a business operating within the city and borough of Sitka, Alaska; or the rental or sale of any equipment to be used in any trip or tour described in this sentence, whether or not that trip is guided. Methods of transportation used in commercial operations involving organized excursions include but are not limited to: buses, aircraft, vans, pedicabs, bicycles, carriages, kayaks, boats, or walking tours. The rules of conduct and the permit requirements set out in this chapter apply to taxicabs that conduct tours.

B. “Commercial vehicle loading/unloading” means the loading and/or unloading of a vehicle used by commercial operations involving organized excursions in the areas subject to this chapter.

C. “HCH manager” means the city and borough employee who is the manager of Harrigan Centennial Hall and the adjoining plaza, and designated to administer this chapter.

D. “HCH plaza” means the property owned by the city and borough adjoining HCH made up of decorative walkways and gathering places between HCH, and the adjoining parking lots and waterfront.

E. “Permittee” and “permit holder” mean the business entity or its authorized representative conducting commercial operations involving organized excursions or conducting commercial vehicle loading/unloading.

F. “Person” means a natural person, partnership, corporation, limited liability company, association, or other entity organized for a common purpose.

G. “The city and borough” means the city and borough of Sitka, Alaska.

H. “Vehicle” means a device in, upon or by which a person or property may be transported or drawn including devices moved by human, animal, mechanical or other power source.

#### **6.19.030 Permit required for commercial operations involving organized excursions in areas subject to this chapter.**

A. General. No person shall sell, offer to sell, solicit to sell, take orders to sell, or conduct commercial operations involving organized excursions in the areas subject to this chapter except as authorized by a valid permit obtained from the city and borough pursuant to this chapter. A permit issued pursuant to this section shall be called a “commercial operations permit.” A permit issued pursuant to this section may contain conditions reasonably required for the protection and use of the city and borough land and facilities for which the permit is granted, including limitations as to time, area, equipment, user loading, traffic, parking, discharges, noise, and other factors. Commercial operations involving organized excursions may only be conducted in spaces designated and assigned to commercial operations permit holders by the HCH manager in accordance with this chapter.

B. Terms.

1. A commercial operations permit shall be valid for the period from April 1<sup>st</sup> through December 31<sup>st</sup> of the calendar year issued (the “permit term”), except permits issued under subpart (C)(7) in this section below which shall be valid from April 1<sup>st</sup> through October 15<sup>th</sup>, unless sooner suspended, revoked, or terminated.

2. Permits are not renewable. Issuance of a permit shall not entitle the permit holder to any priority or preferential consideration for subsequent, new, or additional permits for the same or related uses or areas. A new application must be submitted each year for each permit.

3. A commercial operations permit, or any rights or privileges thereunder, may not be assigned or transferred.

4. Acceptance of a permit by the permittee shall constitute an agreement and acknowledgment by such permittee that the permittee has no property right in the permit.

5. Acceptance of a permit by the permittee shall constitute an agreement and acknowledgment by such permittee that the permittee shall indemnify and hold the city and borough, its elected and appointed officers, its employees, and its agents harmless from and against any and all loss, damage or expense for any injury to or death of any person or persons, or for damage to property, resulting from or arising out of any act or omission of such permittee, or any of the permittees' employees, agents, representatives, customers, or contractors.

6. The city and borough, its elected and appointed officers, its employees, and its agents make no representations concerning and assume no responsibility for or regarding any goods or services sold or activities by any permittee, or any of permittee's employees, agents, representatives, contractors, or customers.

C. Limitations.

1. To be eligible for a permit, an applicant must:

a. Hold a current Alaska business license;

b. Maintain a place of business under the name on the Alaska business license within the boundaries of the city and borough; and

c. Maintain a year-round place of business and mailing address in the city and borough, and must designate a single individual by physical address, mailing address and phone number in the city and borough upon whom service of notices and legal proceedings may be made. Service of any notice concerning the permit to that person shall be legal and sufficient notice to any of the holders, owners or any other with an interest in the permit. The HCH manager must be notified in writing no less than ten days before there is a change in the name, address, or phone number of the designated person for a permit. Failure to timely notify the HCH manager shall be considered a violation of the permit.

2. A person with an overdue debt with the city and borough, of any kind whatsoever, is ineligible for a permit.

3. No permit may be issued under this section to a person whose last permit issued under this section was revoked within two calendar years before April 1<sup>st</sup> of the current permit term, unless upon appeal issued by the city and borough administrator for good

cause shown by the applicant with no further administrative appeal available by the city and borough.

4. Permittees may conduct business during the permit term, except during special events when prior notice is given to the permittees by the city and borough.

5. Signs:

- a. Any signs, vehicles and vessels used by permittees in an area regulated by this chapter must be in compliance with the law.
- b. All signs must be freestanding, portable or mobile. Freestanding, portable or mobile signs are limited to one per permittee, and shall not be more than three feet wide and four feet from the ground, and shall only be posted in the assigned space.
- c. All vehicles must be operational at all times.
- d. Unless otherwise permitted, all signs, vehicles, and equipment must be removed from any area for which the city and borough is responsible at the end of each business day.

6. Commercial solicitation/sales spaces. Spaces within the HCH plaza may be designated and assigned to commercial operations permit holders, during the permit term, to accommodate the solicitation and sale of excursions offered by the permit holders. These spaces will be designated and assigned by the HCH manager to the highest bidders in accordance with sealed bid procedures established by the HCH manager and approved by the city and borough administrator. The minimum bid is \$2,500, which must be deposited with the sealed bid and will only be returned if the bid is unsuccessful. Businesses permitted to occupy these spaces will be allowed to apply for and obtain a permit for a space under subpart (C)(7) of this section and must pay the required fees for any space assigned.

7. Commercial outfitter spaces. Spaces within the HCH plaza may be designated and assigned to commercial operations permit holders, from April 1<sup>st</sup> through October 15<sup>th</sup> of the permit term, to accommodate vehicles, equipment, and operations that are necessary for customer outfitting and rental of equipment to be used in an excursion offered by a permittee or used by a customer. These spaces will be designated and assigned by the HCH manager to the highest bidders in accordance with sealed bid procedures established by the HCH manager and approved by the city and borough administrator. The minimum bid is \$5,000, which must be deposited with the sealed bid and will only be returned if the bid is unsuccessful. Vehicles used by the permittee in the assigned space may remain overnight from April 1<sup>st</sup> through October 15<sup>th</sup> of the permit term, but must be moved upon prior notice by the city and borough for special events. Businesses permitted to occupy these spaces will be allowed to apply for and obtain a permit for a space under subpart (C)(6) of this section and must pay the required fees for any space assigned.

D. Fees. There is no fee for applying for a permit. However, the applicant shall pay all costs and expenses required by or related to its application, which are non-refundable by the city and borough whether the permit is denied or granted. If the permit is granted, the permittee shall pay a permit fee for the space assigned to the permittee in accordance with this section before business can be conducted under the permit, but payment shall be made before the permit is

issued and no longer than ten days after the permit is granted, or the permit shall be forfeited. In addition to the applicable permit fee required by this section, the permittee shall pay a permit fee required by section 6.19.040 for each vehicle loading/unloading for the permitted business.

E. Application. A person or business entity seeking a permit shall file a written application on a form provided by the city and borough, and follow the application procedures established by the HCH manager and approved by the city and borough administrator. The application shall contain the following information:

1. Name, address, telephone number and email address of the applicant and all principals of the business;
2. Name, address, telephone number, and email address of contact person for the business;
3. The experience of the applicant in the transportation of passengers;
4. A list of vehicles and description by year, make, model, color, license number and registration number (DMV);
5. A statement, from the state of Alaska, that the applicant has not been convicted of any felony or the following misdemeanor offenses within the preceding five years:
  - a. Prostitution or the promotion of prostitution;
  - b. Sale, transportation, possession, or use of any controlled substance as defined in Sections 11.71.140 through 11.71.190 of the Alaska Statutes;
  - c. Any offense which includes as an element the use or threat of force upon a person;
  - d. Burglary, theft, fraud, or embezzlement;
  - e. Any sexual offenses;
6. Description of commercial operations; and
7. An acknowledgment by the applicant that applicant agrees to be bound by all of the terms, conditions and provisions set forth in this chapter, and such additional terms and conditions as may be set forth in the permit application process or by the HCH manager.

F. Insurance and Indemnification.

1. Prior to issuance of a permit, the permittee must provide the HCH manager with a broker's certificate of insurance showing that the permittee has obtained public liability insurance in the amount and for the risks determined by the city and borough for the proposed use. The certificate must establish that the city and borough is named as additional insured on the policy and that the insurer shall notify the city and borough within thirty days if the policy is modified, canceled, or terminated.

2. Permittees, upon acceptance of a permit, shall execute an instrument under the terms of which the permittee shall agree to indemnify, defend, and hold harmless the city and borough from any and all claims for injury or damage to persons or property suffered in connection with the permittee's activities unless such injury or damage is caused by the intentional misconduct or gross negligence of the city of borough.

G. Issuance of Permit. After review of the application by the HCH manager or his/her written designee, the HCH manager or his/her written designee shall only grant the application upon finding that the applicant for the permit is fit, willing, and able to comply with the law and that granting the permit satisfies public convenience and necessity. The permit shall state the name and address of the applicant, the date of issuance, the vehicles authorized under the permit, and such additional terms, conditions, provisions and limitations deemed appropriate as to public health, safety, and welfare. No permit shall be considered to have been issued until it has been signed by the HCH manager or his/her written designee. In making the above-mentioned findings of public convenience and necessity, the HCH manager shall take into consideration the character, experience, and responsibility of the applicant, and the public health, safety, and welfare. A decision to deny an application for a permit may be appealed by the applicant to the city and borough administrator no later than seven days after notice of denial is delivered to the applicant. Notice sent to the applicant's address stated in the application shall constitute delivery. The notice shall include a brief statement of facts giving reason for the denial. The applicant shall have an opportunity to be heard at an informal hearing and shall have the right to call or cross-examine witnesses. Relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of a common law or statutory rule that makes improper the admission of evidence over objection in a civil action. Hearsay evidence may be used to supplement or explain direct evidence, but is not sufficient by itself to support a finding unless it would be admissible over objection in a civil action. The administrator shall issue a written decision. An appeal from the decision of the city and borough administrator may be taken to the superior court for the state of Alaska no later than thirty days after the administrator sends notice of such denial to the applicant.

H. Fraud. Misrepresentation or false advertising will not be tolerated. Any person issued a permit under this section who commits any act of fraud, cheating or misrepresentation, whether through the permittee or through an employee, agent, or representative thereof, while performing an activity provided for or authorized by the permit, directly or indirectly, or who shall barter, sell, or peddle any goods, upon public property other than those specified and authorized in their permit, can face revocation as provided in subsection I of this section.

I. Suspension and Revocation. A permit may be suspended by the HCH manager without advance notice for a period not to exceed ten days if any activities conducted under the permit present an immediate danger to the public health, welfare, or safety. All other suspensions and revocations shall be handled by the city and borough administrator or his/her written designee. The city and borough administrator or his/her written designee may at any time suspend or revoke a permit issued under this section for noncompliance with any term, condition, or provision of the permit, or violation of any provision of this section or other applicable local, state, or federal law, ordinance or regulation. The city and borough administrator or his/her written designee may also suspend or revoke such a permit upon a determination that the operation of the permittee is causing a hazard, or a disruption of pedestrian, vehicular, or watercraft traffic, or that the area affected by the permit is required for another public purpose, or for other reasons. The permittee shall be given prior written notice of the proposed suspension or revocation of the permit which includes written findings as to noncompliance with

the permit. If so requested by such permittee, not later than five days after the date of the written notice of proposed suspension or revocation, the permittee may appeal the decision of the administrator or written designee to a hearing officer selected by the administrator. The notice shall include a brief statement of the facts giving reason for the proposed suspension or revocation. The applicant shall have an opportunity to be heard at an informal hearing and shall have the right to call or cross-examine witnesses. Relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of a common law or statutory rule that makes improper the admission of evidence over objection in a civil action. Hearsay evidence may be used to supplement or explain direct evidence, but is not sufficient by itself to support a finding unless it would be admissible over objection in a civil action. The administrator shall issue a written decision. Appeal from a hearing officer's decision may be made no later than thirty days after such decision to the superior court for the state of Alaska sitting in Sitka. Justifications for revocation can include but are not limited to: verified complaints from customers in which services were verbally or otherwise contracted for, but not received from the permit holder or the permit holder's business; physical touching, grabbing, yelling, or shouting to a degree that would constitute disorderly conduct under AS 11.61.110, in an attempt to convince potential customers to purchase services or equipment; interference with competing commercial operators, HCH staff, or harbor department staff; failure to comply with reasonable directions of the HCH manager or staff, the harbormaster or staff, or a police officer; or, conviction of any offense listed in subsection E(6) of this section. No permit may be issued to a person whose last permit issued under this section was revoked within two calendar years before April 1<sup>st</sup> of the current permit term, unless issued by the city and borough administrator for good cause shown by the applicant with no further administrative appeal available by the city and borough.

**6.19.040 Permit required for commercial vehicles loading/unloading in certain areas.**

A. General. No person shall operate, park, stand, or stop a commercial vehicle, or cause or direct the same, within the designated loading/unloading areas at the HCH plaza and the O'Connell Bridge Tendering Facility, except as authorized by a valid permit issued by the HCH manager or his/her written designee pursuant to this section. A permit issued pursuant to this section shall be called a "commercial vehicle loading/unloading permit." Permit holders may only use areas designated for commercial vehicle loading/unloading by the HCH manager, as approved by the city and borough administrator. The applicant must display a sticker issued by the HCH manager in the lower right corner of the front windshield of the vehicle, or as specified by the HCH manager.

B. Incorporation of applicable provisions from section 6.10.030. The following subparts of section 6.10.030, as they presently exist or as they may be revised in the future, are incorporated by reference in this section: subparts (B)(1) – (6) "Terms," subparts (C)(1) – (4) "Limitations," subparts (E)(1)-(7) "Application," subpart (F) "Insurance and Indemnification" (for motor vehicle liability insurance), subpart (G) "Issuance of Permit," subpart (H) "Fraud," and subpart (I) "Suspension and Revocation." The provisions hereby incorporated in this section shall be interpreted and applied to best accommodate and control the permitted motor vehicles loading/unloading in the designated areas.

C. Fees. There is no fee for applying for a permit. However, the applicant shall pay all costs and expenses required by or related to its application, which are non-refundable by the city and borough whether the permit is denied or granted. If the permit is granted, the permittee shall pay a permit fee for each vehicle as follows; under seven passengers \$250, seven to fifteen passengers \$500, sixteen to twenty-nine passengers \$750, thirty or more passengers \$1,000.

The permit fee shall be reduced by 50% for any vehicle powered by electricity. Payment shall be made before the permit is issued or the permit shall be forfeited.

D. The staging of vehicles for commercial vehicle loading/unloading for commercial operations involving organized excursions is prohibited within Crescent Harbor and HCH Plaza parking lots and the O'Connell Bridge Tendering Facility parking lots. Such vehicles will only be allowed in when actively loading/unloading.

**6.19.050 Penalties.**

A. Conducting commercial operations involving organized excursions in violation of a permit issued under section 6.19.030 and loading/unloading a commercial vehicle in violation of a permit under section 6.19.040 are punishable by a fine of two hundred fifty dollars for a first offense and a fine of five hundred dollars for a second or subsequent offense. Such fines are separate from any suspension or revocation imposed pursuant to Section 6.19.030(l).

B. Conducting commercial operations involving organized excursions without a permit issued under section 6.19.030 and loading/unloading a commercial vehicle without a permit issued under section 6.19.040 are punishable by a fine of two hundred fifty dollars for a first offense, and a fine of five hundred dollars for a second or subsequent offense. A second or subsequent offense shall also bring the loss of the privilege of receiving such a permit for two calendar years.

**6.19.060 Prohibition of distribution of commercial handbills and leaflets and placement of commercial advertisement signs.**

Except as otherwise permitted by this chapter, no person may distribute commercial handbills or leaflets, or place commercial advertisement signs in the areas subject to this chapter.