

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2022-02

**AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA AMENDING TITLE 11
“VEHICLES AND TRAFFIC” OF THE SITKA GENERAL CODE BY REPEALING
SECTION 11.28.040 “EXCEPTION - PROHIBITION OF ALL-PURPOSE VEHICLES
TRAVELING ON PUBLIC ROADWAYS” IN CHAPTER 11.28 “STATE TRAFFIC LAWS
ADOPTED” AND ADDING CHAPTER 11.75 “ALL- PURPOSE VEHICLES”**

1. CLASSIFICATION. This ordinance is of a permanent nature and is intended to become a part of the Sitka General Code.

2. SEVERABILITY. If any provision of this ordinance or any application to any person or circumstance is held invalid, the remainder of this ordinance and application to any person or circumstance shall not be affected.

3. PURPOSE. The purpose of this ordinance is to repeal the prohibition of all-purpose vehicles traveling on public roadways and to establish authority and set standards for the use of all-purpose vehicles on public roadways within the city and borough. These standards include defining “all-purpose vehicle”, requiring a municipal permit, driver’s license, state registration, and insurance, and establishing safety equipment standards, protective equipment standards, traffic laws, hours of operation, and prohibited places of operation without a permit. In addition, this ordinance provides that citations for defective equipment may be voidable upon repair or adjustment and establishes penalties for violations. The intent is to allow all-purpose vehicles to travel on public roadways while protecting public safety consistent with existing vehicle and traffic laws.

4. ENACTMENT. NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough of Sitka that the Sitka General Code Title 11, entitled “Vehicles and Traffic”, be amended by repealing Section 11.28.040, entitled “Exception- Prohibition of All-Purpose Vehicles Traveling on Public Roadways”, and adding Chapter 11.75, entitled “All-Purpose Vehicles”, to read as follows (deleted language stricken, new language underlined):

**Title 11
VEHICLES AND TRAFFIC**

Chapters:

- 11.28 State Traffic Laws Adopted** * * *
- 11.75 All-Purpose Vehicles** * * *

**Chapter 11.28
STATE TRAFFIC LAWS ADOPTED**

Sections:

- 11.28.010 Traffic code—Adoption of state traffic laws.
- 11.28.020 Adoption of state penalties.
- 11.28.030 Violation—Infraction.
- ~~11.28.040 Exception—Prohibition of all-purpose vehicles traveling on public roadways.~~

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~~11.28.040 Exception—Prohibition of all-purpose vehicles traveling on public roadways.~~

~~No driver of an all-purpose vehicle may travel on a public roadway within the city and borough of Sitka. The city and borough of Sitka adopts all state traffic regulations that otherwise reference or define “all purpose vehicle” as they presently exist and as they may be revised in the future as part of the traffic code for the city and borough of Sitka.~~

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Chapter 11.75
ALL-PURPOSE VEHICLES

Sections:

11.75.010 Definitions.

11.75.020 State traffic laws and regulation with respect to APVs adopted by reference.

11.75.030 APV permit from the city and borough.

11.75.040 Operations of APVs on public roadways within the city and borough.

11.75.050 Citation for defective equipment.

11.75.060 Penalties.

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11.75.010 Definitions.

For purposes of this chapter the following definitions shall apply, unless the context clearly indicates or requires a different meaning:

A. “All -purpose vehicle” (APV) or “All-purpose vehicles” (APVs) mean any self-propelled vehicle designed to travel on wheels or tracks in contact with the ground and are commonly used to transport persons for recreational purposes, including vehicles such as four-wheel drive units, all-terrain vehicles (ATVs), or utility terrain vehicles (UTVs), and does not include off-highway vehicles in 13 AAC 40.010(a)(30).

B. “Public roadway” means the entire width between the boundary lines of every way that is publicly maintained when a part of it is open to public vehicular traffic, including, but not limited to, all highways, roadways, right-of-ways, streets, and alleys.

C. “Vehicle” is defined in SGC section 11.04.140, as it presently exists and as it may be revised in the future.

11.75.020 State traffic laws and regulations with respect to APVs adopted by reference.

A. The city and borough adopt all traffic laws and regulations of the state, as they presently exist and as they may be revised in the future, with respect to APVs, unless such law or regulation conflicts with any provision of this chapter. In the event of such a conflict, this chapter shall control to the extent it is not preempted by state law.

B. All citations issued under this chapter shall use either the section number under this chapter or the appropriate Alaska Statute (“AS”) or Alaska Administrative Code (“AAC”) statute or regulation number, include a description of the offense, and indicate when using an AS or AAC number that the offense was adopted by reference as a city and borough ordinance, and state that the charging entity is the city and borough.

C. When the context requires, the term “Alaska State Trooper” or “peace officer” when used in a provision incorporated by reference under this section shall be deemed to mean and

construed as identical with chief of police, police officer, or such other local police officer sworn to enforce the laws of the city and borough. When the context requires, the term "department" appearing in the Alaska Statutes and Alaska Administrative Code provisions adopted by reference shall be construed to mean the Sitka Police Department.

11.75.030 APV permit with the city and borough.

A. Permit. The owner of an APV must obtain an APV permit from the city and borough before that APV may travel upon the public roadways within the city and borough.

B. Application. An application for a permit shall be filed with the chief of police upon forms provided by the city and borough. The application shall be accompanied by a nonrefundable fee to be determined by the chief of police, such application shall include the name, mailing address, residential address, and email address, if any, of the owner(s), the year, make, model and vehicle identification number of the APV, and any other information as the chief of police may require. The application shall be signed by the applicant, and such signature shall constitute the applicant's consent to an inspection of the APV conducted by the department for compliance with the safety equipment requirements under this chapter.

C. Inspection. The department shall conduct an inspection of the APV for compliance with the safety equipment requirements under this chapter, and a report of such inspection shall be maintained.

D. Insurance. Applicants shall provide proof of insurance required by this chapter in the form of a standard certificate of insurance. The policy shall be maintained in full force effect during the duration of the permit. Any permit issued under this chapter shall expire automatically upon cancellation of the insurance required under this chapter.

E. Consideration of application/appeals. The chief of police, after considering the application, the inspection report, and the certification of insurance, shall approve or deny the application. The chief of police shall issue a written statement of reasons for denial. If the application is denied, the applicant may request a hearing, as provided in subsection (M) below, before the chief of police to offer evidence why the denial should be reconsidered or to establish that reasons for denial have been cured. A denial may be appealed to the administrator as provided in subsection (M) below.

F. Revocation or suspension of permit. The permit issued under this chapter shall be revoked by the chief of police if the owner and/or operator(s) of the APV violates any of the provisions of this chapter three times during the duration of the permit. Upon determining that an immediate danger to persons or property exists, the chief of police may suspend the permit at once. The suspension shall take effect immediately upon written notice of the suspension being received by the owner or operator of the APV either in person or by mail or email.

G. Change of ownership. Any change of ownership of an APV shall require a new application and permit.

H. Duration. Permit shall be valid from the date of issuance for a term of three years.

I. Renewal and late penalty. The application for renewal of the permit shall be made to the chief of police prior to the permit expiration date. A penalty to be determined by the chief of police shall be added to the permit fee accompanying a renewal application received after the expiration date.

J. No transfer of permit. No permit issued in accordance with this chapter may be sold, assigned, or otherwise transferred.

K. Permit property of the city and borough. Any permit issued in accordance with this chapter shall remain the property of the city and borough, and upon expiration, revocation, or suspension, it shall be returned to the city and borough. If a permit is lost or destroyed, upon affidavit made as to its loss or destruction, it may be replaced upon payment of a required fee to be determined by the chief of police.

L. Notice of suspension or revocation. Prior to revocation or suspension of a permit issued under this chapter, the chief of police shall provide written notice to the permittee. The notice shall contain the following information: the name and title of the person issuing the notice; the date on which the suspension or revocation will become effective; the reason for the revocation or suspension; that the permittee may request a hearing regarding the revocation or suspension; and, that the request for a hearing must be made in person or in writing and received by the chief of police within ten days after receipt of the notice; that failure to appear in person or mail a letter within ten days after receipt of the notice or by its return by the U.S. Postal Service shall act as a waiver of the right to a hearing and the revocation or suspension will, as applicable, become effective on the date included in the notice. The notice shall be delivered to the permittee in person or by first class mail to the last known address stated in the hearing request or, if none, in the permit application.

M. Hearing. Upon request of a hearing, as provided subsections (E) and (L) above, a hearing shall be held before the chief of police. The hearing shall be set and conducted within forty-eight hours of receipt of the request, holidays, Saturdays, and Sundays not to be included. The hearing can be set for a later date if the permittee so requests. At the hearing the applicant or permittee may contest the denial, revocation, or suspension of the permit. If the chief of police finds that the applicant or permittee is not eligible for a permit or the suspension or revocation is warranted, the chief of police may declare the permit denied, revoked, or suspended, as applicable. The decision of the chief of police is appealable to the administrator which must be made within ten days of the decision and must be in writing. The decision of the administrator is final. If the applicant or permittee does not appear at the scheduled hearing, the chief of police or administrator shall enter a written order supporting the denial, revocation, or suspension of the permit. The decision or order shall be delivered to the applicant or permittee in person or by first class mail to the last known address stated in the hearing request or, if none, in the permit application.

11.75.040 Operation of APVs on public roadways within the city and borough.

APVs may operate on the public roadways within the city and borough, subject to the following conditions:

A. Driver's License. The person operating the APV must be a duly licensed driver in the state and at least 16 years of age.

B. State Registration. APV must be registered as required by state law, and proof of registration must be presented upon demand as required by state law.

C. Insurance. The APV must have liability insurance required by state law, and proof of insurance must be presented upon demand as required by state law.

D. Safety equipment. The APV must be equipped with the appropriate safety equipment, including headlights, taillights, turn signals, muffler, throttle, fenders, brakes, rearview mirror, horn, speedometer, and seatbelts (UTVs only), all in operating order, and which meet or exceed state or municipal regulations. When driving on a public roadway within the city and borough, APVs must be equipped with:

1. At least one headlight, aimed and of sufficient intensity to reveal persons and vehicles at a distance of one hundred feet ahead;
2. One red light, one stop-signal light, and one red reflector, which must be mounted upon the rear or rear cowl of the APV, and the lights must be visible from a distance of at least one thousand feet to the rear, and the reflector must be visible from a distance of at least six hundred feet to the rear when directly in front of the lawful lower beams of the headlights of a vehicle or APV;
3. Turn signals mounted on the front and rear of the APV, which must be visible from a distance of at least one thousand feet to the front and six hundred feet to the rear when directly in front of the lawful lower beams of the headlights of a vehicle or APV;
4. An exhaust muffler in good working order, and may not use a muffler cutout, bypass, or other similar device;
5. A throttle or idle spring in good working condition which, when released, will return the engine speed to idle, close the carburetor, and disengage the clutch;
6. Fenders designed by the manufacturer for use by APVs on public roadways whether paved or not;
7. Brakes which will control the movement, stop, and hold the APV under normal driving conditions on any grade upon which it normally may be driven, and under all conditions of loading;
8. A rearview mirror in good working condition;
9. A horn in good working condition;
10. A speedometer in good working condition;
11. Seatbelts but only required for UTVs.

E. Protective equipment. Operators must wear protective headgear and an eye-protective device, except for UTVs equipped with seatbelts, that meet or exceed state or municipal regulations.

F. Traffic laws. The operator of an APV must observe all state and municipal laws which pertain to the operation of vehicles upon a public roadway. When driving on a public roadway within the city and borough, APVs:

1. Must stay on the correct side of the lane of traffic except when crossing the public roadway;

2. Must travel in single file, not abreast of other moving vehicles or APVs;
3. May not pass other moving vehicles or APVs;
4. May not weave in and out of traffic;
5. May not operate in any other manner that may be considered careless, reckless or negligent;
6. May not allow passengers, except for UTVs equipped with seatbelts;
7. Must not exceed the weight limit as established by the manufacturer (including cargo) and must be of a weight that the operator is able to control the movement of and to stop and hold it under normal conditions of operations;
8. May not exceed the posted speed limit;
9. Must be equipped with an engine of 250 cc or more;
10. Must be able to travel at the posted speed limit of the public roadway it travels upon;
11. Must be able to travel under two-wheel drive;
12. Must comply with noise and smoke rules as provided in SGC Section 11.44.020.
13. Must comply with rules related to obstruction to a driver's view as provided in SGC Section 11.44.030.
14. Must not travel on public roadways while towing a trailer, sled, toboggan or other object.

G. Hours of operation. Operation of an APV is prohibited on a public roadway within the city and borough from 12:00 a.m. to 5:00 a.m. of every day of the week, except when circumstances exist which justify an exception because operation of the APV was necessary or unavoidable. Exceptions are limited to non-recreational use and may only be allowed when involved in an emergency or going to or returning from employment, without detour or stop, or engaged in an employment activity, without detour or stop. There is no seasonal limitation on operation of APVs on public roadways within the city and borough.

H. APVs may not operate on municipal parks, lands and trails without a written permit obtained under SGC Chapter 23.10.

11.75.050 Citation for defective equipment voidable upon repair or adjustment by owner or operator.

A. A police officer may issue a citation to the owner or operator of an APV, which is not in safe mechanical condition or properly equipped as required by state law, or the safety or equipment provisions of this chapter. A citation issued under this section shall specify the repair or adjustment to be made.

B. An owner or operator cited under this section shall within a time specified by the citing officer appear at the offices of the department and present acceptable evidence of having made the repairs or adjustment or present the APV for re-inspection. If the defective part or item is at that time determined to be in good repair, and the APV otherwise meets the requirements of this chapter, the inspecting officer shall void the citation. Failure to present evidence of repair or adjustment or to present the APV for re-inspection within the time specified shall result in the action or penalties permitted by this chapter.

11.75.060 Penalties.

A. Violation of any provision of this chapter shall be a minor offense punishable by a fine as provided in this section, or if no fine is established, a fine not to exceed five hundred dollars.

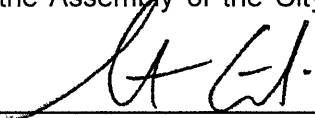
B. In accordance with AS 29.25.070(a), citations for offenses in this chapter may be disposed of as provided in AS 12.25.175 through 12.25.230, without a court appearance, upon payment of the fine amounts stated herein plus the state surcharge required by AS 12.55.039 and 29.25.074. Fines must be paid to the city and borough. The Alaska Rules of Minor Offense Procedure in the Alaska Rules of Court apply to all offenses referenced herein. Citations charging these offenses must meet the requirements of Rule 3 of the Alaska Rules of Minor Offense Procedure. For the first offense, the fine shall be fifty dollars. For the second offense, the fine shall be one hundred dollars. For the third offense, the fine shall be two hundred fifty dollars. For any subsequent offense after three, the offender must appear in court to answer for the charges. If a person charged with one of these offenses appears in court and is found guilty, the penalty imposed for the offense may not exceed the fine amount for that offense stated herein. These fines may not be judicially reduced. For purposes of this chapter, prior offenses must be within the previous three years.

C. Each and every day during any portion of which a violation or failure to comply is committed, permitted, or continued, shall be treated as a separate offense, and subject the offender to separate charges and a fine as provided in subsection (B) of this section.

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5. EFFECTIVE DATE. This ordinance shall become effective the day after the date of its passage.

PASSED, APPROVED, AND ADOPTED by the Assembly of the City and Borough of Sitka, Alaska, this 22nd day of February, 2022.



Steven Eisenbeisz, Mayor

ATTEST:



Sara Peterson, MMC
Municipal Clerk

1st reading: 2/8/2022

2nd and final reading: 2/22/2022

Sponsors: Christianson / Miller