

Suggested Motion

I MOVE TO approve Ordinance 2015-11 on second and final reading.



City & Borough of Sitka
Municipal Clerk's Office
100 Lincoln Street, Sitka AK 99835
Telephone: 907-747-1811 Fax: 907-747-4004



Memorandum

To: Mayor and Assembly
Cc: Municipal Administrator Mark Gorman
From: Municipal Clerk Colleen Ingman
Date: March 4, 2015
Subject: **Ordinances resulting from Legal Analysis**

In September of 2014, CBS contracted with Code Publishing to complete a legal analysis of our code. Their attorney recommended items that they felt needed immediate action to bring the code into legal compliance and, where possible, has recommended amending language for this purpose.

We considered doing a single "clean-up" ordinance but quickly learned that one clean up ordinance that addressed all the recommendations would be extremely bulky and difficult to follow. It is still our intent to bring forward as few ordinances as possible, but at the same time keep the amendments concise enough that they can be easily understood. We will combine amendments whenever possible.

The attached Ordinances 2015, 11; 12 & 14 all resulted from the legal analysis and have been shared with the various departments.

It is my intent to have all clarifying ordinances passed by the final meeting in April, so a few more are forthcoming. I have placed them on the Consent Agenda for first reading as the majority will be fairly straight forward, plus we are not required to take public testimony until second reading.

Attachment: **Ordinance 2015-11; 2015-12; 2015-14**

From: Colleen Ingman [redacted@sitka.ak.us]

Sent: Friday, December 26, 2014 2:19 PM

To: Sara Peterson

Subject: Clarifying Titles 7 - 12 of SGC

Hi Sara,

Attached is an ordinance that clarifies things brought up during the legal review for Titles 7-12. Please route the draft to Legal, Police and Fire departments for their review and comments.

Thanks!

Colleen

RE: Review/Comment : Clarifying Titles 7 - 12 of SGC

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RE: Review/Comment : Clarifying Titles 7 - 12 of SGC

Dave Miller [redacted@cityofsitka.com]

Sent: Tuesday, December 30, 2014 12:38 PM

To: Lt. Jeff Ankerfelt [jeffa@sitkapd.com]; Sara Peterson; Robin Koutchak; Janine Canul; Sheldon Schmitt [sheldons@sitkapd.com]

Fire Department feels the same as the PD

From: Lt. Jeff Ankerfelt [redacted@sitkapd.com]

Sent: Tuesday, December 30, 2014 12:29 PM

To: Sara Peterson; Robin Koutchak; Janine Canul; Sheldon Schmitt; Dave Miller

Subject: RE: Review/Comment : Clarifying Titles 7 - 12 of SGC

Hi Sara,

Thanks for the PD a chance to view this. No objections to any of the changes from the police. Thanks, Jeff.

Lieutenant Jeff Ankerfelt

Sitka Police Department

304 Lake Street

Sitka, Alaska 99835

Phone: (907) 966-5702

Fax: (907) 747-7122



CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2015-11

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA, ALASKA
PROPOSING TO CLARIFY THE SITKA GENERAL CODE BY AMENDING THE
FOOTNOTE IN TITLE 9 HEALTH AND SANITATION, BY AMENDING SECTIONS
10.24.050 FIREWORKS PERMISSABLE SALES AND USES AND 10.24 REFERENCE
NOTE, SECTION 10.44.070 (C) COMMON CARRIER DEFINITION, BY REPEALING
WITHOUT REPLACEMENT SECTION 10.48.030 EVIDENCE, BY AMENDING SECTION
10.72.070 JUVENILE CURFEW PENALTIES, BY REPEALING SECTION 10.84.020
GRANDFATHER CLAUSE FOR LIQUOR SALES AGE, BY AMENDING SECTION
11.04.110 PUBLIC HOLIDAYS LIST, SECTION 11.40.230 PARKING REFERENCE,
SECTION 11.56.100 FOR CORRECT REFERENCE FOR TAXICAB MEDICAL
REQUIREMENTS, BY REPEALING SECTION 11.64.010 PEDESTRIAN RULES, AND
BY AMENDING SECTION 11.70.010 TO REMOVE OUTDATED HELMET STANDARD
REFERENCE

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 circumstances shall not be affected.

3. **PURPOSE.** As found in Alaska Statute 29.25.050, the municipal clerk is responsible for ensuring that the municipal code is kept current. Sitka's municipal clerk sought legal analysis from Code Publishing Company for a review of the Sitka General Code for state and federal constitutional issues and apparent conflicts. These clarifying changes to these Code sections are derived from that review and further analysis.

In Title 9, Footnote 1 refers to an Alaska Statute for authorization of garbage collection that no longer exists. The correct reference is named.

In Title 10, fireworks are now regulated by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). A reference to current fireworks regulations is added. A correct reference to a common carrier definition is applied to sales of liquor. Section 10.48.030 serves no legal or practical purpose as "common fame" does not currently exist as a legal concept and this section is covered by Alaska Rule of Evidence 404 regarding character evidence. Alaska Statutes require a maximum fine of \$250 for curfew violators. The special grandfather provision for legal drinking age is no longer needed for those born before 1965.

In Title 11, public holidays are updated to their correct names. The correct AAC reference for taxicab operators' medical rules is named. A redundant section on pedestrian rules at traffic control signals is removed. The American National Standards Institute (ANSI) no longer makes standards and has chosen to use American Society for Testing and Materials (ASTM) standard F1447, so ANSI is being removed from the helmet standards list.

51 4. **ENACTMENT.** NOW, THEREFORE, BE IT ENACTED by the Assembly of
52 the City and Borough of Sitka that the following sections of the Sitka General Code are
53 hereby amended to read as follows:

54 **Title 9**
55 **HEALTH AND SANITATION**

56 Chapter:

57 9 Footnotes

58 **¹Footnote**

59 For statutory provisions authorizing home rule municipalities to maintain and
60 operate a garbage and solid waste collection and disposal system, see **AS**
61 **29.35.050**. ~~AS 29.48.033.~~

62 * * *

63
64 **Title 10**
65 **PUBLIC PEACE, SAFETY AND MORALS**
66 **III. Offenses Against Health and Safety**

67 Chapter:

68 10.24 Fireworks

69
70 10.24.050 Permissible sales and uses.

71 Nothing in this chapter shall be construed to prohibit:

72 ***

73 B. The sale of any kind of fireworks if the fireworks are to be shipped directly
74 from the state in accordance with regulations **27 CFR, Part 555 of the**
75 **Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)**, of the
76 ~~United States Interstate Commerce Commission.~~

77 ***

78 10.24.060 Fireworks defined.

79 ... or other devices for use of such caps, the sale and **use** se of which shall
80 be permitted at all times. (**AS 18.72.100**, B.C.S. § 12.04.060.)

81 ***

82
83 **IV. Offenses Against Public Decency**

84 ***

85 10.44.070 Offers of sale and presence on licensed premises (standard operating hours).

86 C. A licensee, his agent, or employee may not permit a person to enter

87 This

88 subsection shall not apply to common carriers as defined in Alaska Statute
89 **4.16.125(c)(1)** ~~42.10.420, subsection (2)~~ or to an employee....

90 ***

91
92 10.48 Prostitution

93 ~~10.48.030 Evidence.~~

94 ~~In all cases of prosecution under this title, common fame shall be competent~~
95 ~~evidence in support of a complaint thereunder; and every house or place used~~
96 ~~for the purpose of prostitution shall be taken and deemed to be a house of~~

97 ~~prostitution within the meaning of this title; and any person residing in such~~
98 ~~house or place with knowledge of its character, shall be presumed, in any~~
99 ~~prosecution against such house, place, person, or persons, guilty as in this title~~
100 ~~provided. (Ord. 73-59 § 3 (part), 1973.)~~

101 ***

102 VIII. Offenses By or Against Minors

103 10.72 Juvenile Curfew

104 10.72.070 Penalties.

105 F. The maximum penalty for violation of this chapter shall be three hundred
106 dollars, except

107 for curfew violation, which shall carry a maximum penalty of not more
108 than two hundred fifty dollars. (AS 29.35.085(b))
109

110 ***

111 10.84 Liquor Regulations

112 ~~10.84.020 Age.~~

113 ~~Whenever in this chapter an age limit is set at twenty-one years, any person who~~
114 ~~was born on or before December 31, 1964, shall be deemed to have attained~~
115 ~~the age limit. (Grandfather clause—Section 18, CH 109, SLA 1983.) (Ord. 73-59~~
116 ~~§ 3 (part), 1973.)~~
117

118 ***

119 Title 11

120 VEHICLES AND TRAFFIC

121 11.04 Definitions

122 11.04.110 Public Holidays

123 “Public holidays” means New Year’s Day, ~~Washington’s Birthday,~~ President’s
124 Day, Memorial Day, Independence Day ~~Fourth of July,~~ Labor Day, Alaska Day,
125 Veterans’ Day, Thanksgiving Day and Christmas Day.
126

127 ***

128 11.40.230 Parking method.

129 E. No person may park a vehicle upon a street, roadway, alley, or vehicular
130 way or area, for the purpose of:

131 ***

132 3. Displaying the vehicle for sale or hire in the regular course of the person’s
133 business ... in accordance with the provisions of Section 11.40.140
134 ~~11.13.02.372.~~
135

136 ***

137 11.56.100 Application for driver’s permit.

138 C. A taxicab driver’s license shall not be issued to any person who does not
139 meet the medical standards set forth in 2 AAC 90.440 ~~13 AAC 08.025.~~
140

141 ***

142 ~~11.64.010 Pedestrians subject to traffic control signals.~~

143

144 ~~Pedestrians shall be subject to traffic control signals as heretofore declared in~~
145 ~~Sections 11.24.050 and 11.24.060, but at all other places pedestrians shall be~~
146 ~~granted those rights and be subject to the restrictions stated hereafter. (Ord. 73-~~
147 ~~64 § 3 (part), 1973.)~~

148 ***

149
150 11.70.010 Helmet requirements for young persons riding certain vehicles.

151 D. A certified protective helmet is a helmet containing a manufacturer
152 certification that meets the standards of the ~~American National Standards~~
153 ~~Institute~~, American Society for Testing and Materials (ASTM) or the United
154 States Consumer Product Safety Commission (CPSC).

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156
157 5. **EFFECTIVE DATE.** This ordinance shall become effective on the day after
158 the date of its passage.

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161 **PASSED, APPROVED, AND ADOPTED** by the Assembly of the City and Borough
162 of Sitka, Alaska this 24th day of March, 2015.

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165
166 _____
167 Matt Hunter, Deputy Mayor

167 **ATTEST:**

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169
170 _____
171 Colleen Ingman, MMC
172 Municipal Clerk