

**CITY AND BOROUGH OF SITKA
ORDINANCE NO. 2010 - 32**

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA, ALASKA AMENDING SITKA GENERAL CODE TITLE 22 ZONING TO 1) REVISE TABLE 22.16.015-1 AS PERTAINS TO BED AND BREAKFASTS IN THE GENERAL ISLAND ZONING DISTRICT AND 2) MODIFY THE CONTROLLING FOOTNOTE 10 TO TABLE 22.16.015-1 THAT COVERS BED AND BREAKFASTS, LODGES, AND RELATED USES IN THE GENERAL ISLAND DISTRICT

BE IT ENACTED by the Assembly of the City and Borough of Sitka, Alaska as follows:

1. **CLASSIFICATION.** This ordinance is of a permanent nature and is intended to be a part of the Sitka General Code of the City and Borough of Sitka, Alaska.

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

3. **PURPOSE.** The purpose of this ordinance is to amend the municipal zoning regulations to clarify the regulation of bed and breakfasts, lodges, and related uses in the General Island zoning district. The existing wording of Footnote 10 is considered confusing and merits refinement.

4. **ENACTMENT.** NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough to:

A. Revise SGC Table 22.16.015 – 1 Residential Land Uses to list the use Bed and Breakfasts as Permitted Uses on Unsubdivided Islands and Conditional Uses on Subdivided Islands in the General Island district subject to the regulations in Footnote 10 of the same table.

B. Repeal and reenact Footnote 10 of SGC Table 22.16.015-1 to read:

Hotels, motels, lodges, boarding houses and bed and breakfasts capable of accommodating a maximum of six guests plus one guest for each one-half acre or fraction thereof above one acre on unsubdivided islands are permitted principal uses. Hotels, motels, lodges, boarding houses and bed and breakfasts, on unsubdivided islands that exceed this maximum, are conditional uses.

Bed and breakfast establishments, boarding houses, hotels, motels and lodges are conditional uses on subdivided islands.

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

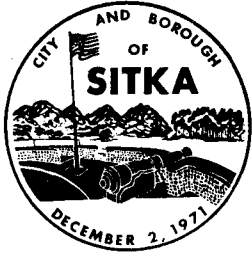
PASSED, APPROVED, AND ADOPTED by the Assembly of the City and Borough of Sitka, Alaska this 14th day of December, 2010.

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ATTEST:

Cheryl Westover, Mayor

Colleen Ingman, CMC
Municipal Clerk

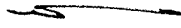


City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

Memorandum

TO: Jim Dinley, Municipal Administrator
Mayor Westover and Members of the Assembly

FROM: Wells Williams, Planning Director 

SUBJECT: Ordinance 2010 – 32 Amending the Zoning Ordinance to Clarify the Regulation of Bed and Breakfasts, Lodges and Related Uses in the General Island District

DATE: November 22, 2010

The Sitka Planning Commission is recommending approval of a revision to SGC Table 22.16.015-1 Residential Land Uses and SGC Table 22.16.015-1 Footnote 10. The board's recommendations, based on a unanimous vote, were made on November 2nd, 2010.

The proposed revisions clarify the treatment of bed and breakfasts, lodges, and related uses by making the table and Footnote 10 more easily understood.

Table 22.16.015-1 lists which types of lodging uses are permitted and conditional uses on subdivided and unsubdivided islands in the GI General Island District.

Footnote 10 of Table 22.16.015-1 provides a formula that sets the maximum number of guests for permitted bed and breakfasts and lodges on unsubdivided islands in the GI General Island District. Facilities that exceed that formula, or, are located on subdivided islands are conditional uses.

The formula was originally proposed by the Assembly around 1990. Sue Littman initiated the zoning ordinance text changes. The Planning Commission is recommending approval of Planning Office suggestions that make the wording even clearer.

The proposed revisions do not change the formula. It makes it easier to follow.

The current wording of Footnote 10 is:

10. Hotels, motels, lodges, boarding houses and bed and breakfasts capable of accommodating a maximum of six persons plus one person for each one-half acre or fraction thereof above one acre on unsubdivided islands are permitted principal uses. All others are conditional uses. Or, bed and breakfast establishments and boarding houses are permitted principal uses. Hotels, motels and lodges are conditional uses. _____

Providing for today...preparing for tomorrow

The proposed wording in Ordinance 2010-32 is:

Hotels, motels, lodges, boarding houses and bed and breakfasts capable of accommodating a maximum of six guests plus one guest for each one-half acre or fraction thereof above one acre on unsubdivided islands are permitted principal uses. Hotels, motels, lodges, boarding houses and bed and breakfasts, on unsubdivided islands that exceed this maximum, are conditional uses.

Bed and breakfast establishments, boarding houses, hotels, motels and lodges are conditional uses on subdivided islands.

There was not any opposition to the proposals.

Recommended Action:

Approve the ordinance.

**City and Borough of Sitka
Planning and Zoning Commission
Minutes of Meeting
November 2, 2010**

Present: Don Alexander (Chairperson), Tom Rogers (Member), William Stortz (Member), Wells Williams (Planning Director), Melissa Henshaw (Planner) and Crystal Duncan (Contract Secretary).

Members of the Public: Gail Bagley, Susan Carlson, Matt Christner, Christian Fabian, Susan Litman, Gary McCrary, David Miller, Steven Miller, and Denton Pearson.

Chairman Alexander called the meeting to order at 7:00 p.m.

**ZONING TEXT AMENDMENT TO ZONING ORDINANCE
FOOTNOTE 10 OF TABLE 22.16.015-1
SUSAN LITMAN**

Public hearing and consideration of a zoning text amendment on footnote 10 of Table 22.16.015-1 to read "10. Hotels, motels, lodges, boarding houses and bed and breakfasts capable of accommodating a maximum of six persons plus one person for each one-half acre or fraction thereof above one acre on unsubdivided islands are permitted principal uses. All others are conditional uses. Bed and breakfast establishments, boarding houses, hotels, motels and lodge are conditional uses on subdivided islands." This request was filed by Susan Litman.

Mr. Williams explained the applicant requested a zoning text amendment to clarify information in the zoning ordinance, specifically footnote 10 on Table 22.16.015-1. In summary, unsubdivided island properties are permitted a maximum of 6 guests (a formula for calculating additional guests is dependent upon the size of the island [in excess of one acre]), other situations or uses (e.g. subdivided islands, establishments requesting a guest count in excess of 6 guests, etc.) require a conditional use permit.

Chairman Alexander called the applicant forward. Ms. Litman stated she found the table confusing and to a certain extent misleading. Her attempt at amending the zoning text was to clarify, not change the current code. Ms. Litman then invited Ms. Carlson to join her on the floor.

Ms. Carlson shared after reviewing the tables, text, etc. she was still confused. According to her, the clarifying language would still be difficult to interpret by the general public.

Mr. Stortz questioned the language proposed for footnote 10 alluding to the non-specific use of "all others are conditional uses." Mr. Williams explained the planning department recommended a tweaked version of Ms. Litman's proposed wording which specifies "Hotels, motels, lodges, boarding houses and bed and breakfasts, on unsubdivided islands that exceed this maximum, are conditional uses."

Staff's proposal in whole read: *"Hotels, motels, lodges, boarding houses and bed and breakfasts capable of accommodating a maximum of six persons plus one person for each one-half acre or fraction thereof above on acre on unsubdivided islands are permitted principal uses. Hotels, motels lodges, boarding houses and bed and breakfast, on unsubdivided islands that exceed this maximum, are conditional uses.*

Bed and breakfast establishments, boarding houses, hotels, motels and lodges are conditional uses on subdivided islands."

Ms. Carlson asked if the guest limits on a subdivided island could exceed the guest count on an unsubdivided island. Mr. Williams explained the guest count for a permitted use on an unsubdivided island is six persons; if a bed and breakfast on a subdivided or unsubdivided island wanted to exceed that number the owner/operator would be required to apply for a conditional use permit which takes into account a number of mitigating factors (e.g. buffers, size of the island, location of the lodge, etc.) including guest occupancy.

Mr. Denton came forward to affirm Mr. Williams sentiments by stating the proposed text amendment is limited to 'use by right', if an applicant was interested in a higher occupancy he or she would have to file for a conditional use permit which would examine an appropriate maximum occupancy.

MOTION: M/S STORTZ/ROGERS moved to recommend approval of a zoning text amendment on footnote 10 of Table 22.16.015-1 to read: 10. Hotels, motels, Hotels, motels, lodges, boarding houses and bed and breakfasts capable of accommodating a maximum of six ~~persons~~ *guests* plus one ~~person~~ *guest* for each one-half acre or fraction thereof above on acre on unsubdivided islands are permitted principal uses. Hotels, motels lodges, boarding houses and bed and breakfast, on unsubdivided islands that exceed this maximum, are conditional uses.

Bed and breakfast establishments, boarding houses, hotels, motels and lodges are conditional uses on subdivided islands."

ACTION: Motion PASSED unanimously on a voice vote.

Staff recommended findings in support of the revision of footnote 10 in Table 22.16.015-1:

MOTION: M/S STORTZ/ROGERS moved to approve the following findings in support of the granting of the variance request.

1. The proposed revision to footnote 10 is to clarify the existing wording that is consistent with the overall goals and policies of the Sitka Comprehensive Plan.

ACTION: Motion PASSED unanimously on a voice vote.

**ZONING TEXT AMENDMENT TO ZONING ORDINANCE
TABLE 22.16.015-1
SUSAN LITMAN**

Public hearing and consideration of a zoning text amendment on Table 22.16.015-1 to revise bed and breakfasts as permitted uses on unsubdivided islands and conditional uses on subdivided islands in the GI General Island district. This request is filed by Susan Litman.

Mr. Williams explained this amendment proposes inserting PU/CS (permitted on unsubdivided islands/conditional use request on subdivided islands) into the table to clarify the permitted use applies to unsubdivided islands.

MOTION: M/S STORTZ/ROGERS moved to recommend approval of the revision to Table 22.16.015-1 regarding bed and breakfasts permitted on unsubdivided islands and conditional use permit required on subdivided islands with detailed and governing language found in footnote 10.

ACTION: Motion **PASSED unanimously** on a voice vote.

CITY AND BOROUGH OF SITKA
PLANNING DEPARTMENT
ZONE CHANGE APPLICATION

ZONE MAP AMENDMENT FEE	\$100.00
ZONE TEXT AMENDMENT FEE	\$100.00
<i>Plus current city sales tax</i>	

Applicant's Name: Susan Litman
Phone Number: 747-3660 (w) 738-3671 (cell)
Mailing Address: Box 1971 Sitka
Applicant's Signature: Susan Litman Date Submitted _____

Provide information or data, as necessary, to fully outline the reasons and justifications for the request. Attach additional sheets as necessary.

REVISIONS SHEET 4 10/10/10

- For official map amendments, the application shall contain:
1. A legal description of **each** subject property along with the owner's name, address, and contact person for **each** subject property;
 2. An analysis showing the public benefit of the proposed amendment;
 3. An analysis showing the proposal's consistency with the Comprehensive Plan;
 4. A map of the area to be rezoned.

LIST SPECIFIC REQUEST: Change footnote 10 under Table 22.16.015-1 to read

10. Hotels, motels, lodges, boarding houses and bed

EXPLANATION OF REQUEST: and breakfasts capable of accommodating a maximum of six persons plus one person for each one-half acre or fraction thereof above one acre on ~~sub~~ unsubdivided islands are permitted principal uses. All others are conditional uses. Bed and breakfast establishments, boarding houses, hotels, motels and lodges are conditional uses on subdivided islands. (Also need to change Br-B in grid to PUCS)

Explanation of request: Prior to the 2002 Zoning Code Revision, bed and breakfasts were conditional uses on all subdivided islands. After the 2002 revision, due to an error in footnote 10, an unlimited number of guests ^{in a Br-B} were a permitted use on subdivided islands in the GI district.

After the application and supporting materials has been determined to be complete by the Planning Office, the request will be placed on the next available Planning Commission agenda.

Melissa Henshaw

From: Susan Litman [litman.susan@gmail.com]
Sent: Tuesday, October 26, 2010 4:47 PM
To: Melissa Henshaw
Subject: Bed and breakfasts

Dear Commission Members-

Footnote 10 of the Sitka Zoning Code pertains to the GI (General Island) district. The following is footnote 10, as presently written.

Hotels, motels, lodges, boarding houses and bed and breakfasts capable of accommodating a maximum of six persons plus one person for each one-half acre or fraction thereof above one acre on unsubdivided islands are permitted principal uses. All others are conditional uses. *Or, bed and breakfast establishments and boarding houses are permitted principal uses. Hotels, motels and lodges are conditional uses.*

The above footnote is silent as to unsubdivided islands. The last two sentences (in italics) are meaningless and impossible to interpret. However, the Planning Department has been interpreting the footnote to mean that an unlimited number of guests are permitted in a B & B on a subdivided GI island.

The proposed footnote reads:

Hotels, motels, lodges, boarding houses and bed and breakfasts capable of accommodating a maximum of six persons plus one person for each one-half acre or fraction thereof above one acre on unsubdivided islands are permitted principal uses. All others are conditional uses. *Bed and breakfast establishments, boarding houses, hotels, motels and lodges are conditional uses on subdivided islands.*

Prior to the major zoning code revision in 2002, bed and breakfasts were a conditional use on **all subdivided islands**. Bed and breakfasts were a permitted use, governed by the formula in the first sentence of footnote 10, on unsubdivided islands. The current rules governing bed and breakfasts on unsubdivided islands remain the same as prior to 2002. However, due to an error in crafting footnote 10, the rule governing bed and breakfasts on subdivided islands in the GI district is drastically different than before 2002. The rule is now being interpreted that an **unlimited** number of guests is a permitted use on subdivided islands.

I have reviewed all the planning commission minutes and also Assembly minutes that pertain to the 2002 code revision. There was no discussion regarding a change in number of guests allowed in a bed and breakfast on islands. It does not make sense, for example, that eight guests (according to the formula) are a permitted use on a two acre unsubdivided island, but if you own a two acre lot on a subdivided island you are allowed an unlimited number of guests.

The Sitka Code requires commercial uses on subdivided islands to obtain a conditional use permit. This is good policy. Many subdivided islands share common docks. In some cases, one lot owns the dock but grants an easement for use to a neighbor. Easements for access can run down the middle of residential lots. Dock insurance for commonly owned residential docks is very difficult to obtain. It may be impossible to obtain insurance for commonly owned residential/ commercial docks. There are other issues that also need to be sorted out before a bed and breakfast is allowed on a subdivided island. The conditional permitting process is a tool for addressing these issues.

Item B on the planning agenda merely changes zoning Table 22.16.015-1 at the intersection of column: GI and row:bed and breakfast from **P** to **PU/CS** to reflect the text correction in footnote 10.

Thank you,
Susan Litman

P.O. Box 1867
Sitka, AK 99835
October 27, 2010

To the Members of the Sitka Planning Commission:

We am writing regarding the zoning text amendment on footnote 10 of Table 22.16.015-1 and the zoning text amendment on Table 22.16.015-1, both of which are on the agenda for discussion at the meeting scheduled for Tuesday, November 2, 2010.

We are island property owners on a subdivided island. We applaud the work that Susan Litman has done to clarify the text. We support both of the text amendments; however, we suggest that the following sentence be added to further clarify both proposed amendments so that anyone, old or new to Sitka, can read and properly understand the regulations:

By definition, “conditional uses” require that a conditional use permit be requested by an applicant and be granted by the City and Borough of Sitka.

Sincerely,

Susan and Robert Carlson

**Table 22.16.015-1
Residential Land Uses**

Zones	P(1)	SF	SFLD	R-1	R-1 MH	R-1 LDMH	R-2	R-2 MHP	CBD (11, 12)	C-1 (11)	C-2 (11)	WD (2, 11)	I	GI (3, 10)	LI(3)	R	OS	SC
RESIDENTIAL																		
• Single-family detached		P	P	P(4)	P(4)	P(4)	P(4)	P(4)		P	P	P		P	P	P	P	
• Townhouse				C(5)	C(5)	C(5)	C(5)	C(5)	C	P	P	P		C	C			
• Duplex				P	P		P	P		P	P	P		P	P			
• Multiple-family				C(5)	C(5)	C(5)	P(5)	P(5)	P(5,8)	P(5)	P(5)	P(5)		C	C			
• Single mobile home on an individual lot					P	P		P			P			C	C			
• Mobile home park								P			P	P						
GROUP RESIDENCES																		
• Assisted living	C							C	C					C	C			
• Bunkhouse for transient workers								C	C			C		C				
• Dormitory	C(4)							C	C									
• Quasi-institutional	C			C	C	C	C	C						C	C			P
TEMPORARY LODGING																		
• Hostel								C	C		P	P	P					
• Hotel/motel									P	P	P	P		PU/ CS	C	C		
• Bed and breakfast				C(7)	C(7)	C(7)	C(8)	C(8)	P	P	P	P		PU/ CS	C			
• Short-term rental				C	C	C	C	C	P	P(9)	P(9)	P(9)		PU/ CS	C	P(9)		
• Rooming house								C	C	C	P	P	P	C	C			
• Lodge										P	P	P		PU/ CS	C			
• Limited storage				C(6)	C(6)	C(6)	C(6)	C(6)						P	C			P

P: Public Lands District
 SF: Single-Family District
 SFLD: Single-Family Low Density District
 R-1: Single-Family/Duplex District
 R-1 MH: Single-Family/Duplex/Mobile Home District
 R-1 LDMH: Single-Family/Duplex and Single-Family/Mobile Home Low Density Districts
 R-2: Multifamily District
 R-2 MHP: Multifamily/Mobile Home District
 CBD: Central Business District

C-1/C-2: General Commercial and General Commercial/Mobile Home Districts
 WD: Waterfront District
 I: Industrial District
 GI: General Island District
 LI: Large Island District
 R: Recreational District
 OS: Open Space District
 SC: Sawmill Cove Special District

P—Permitted
 C—Conditional Use Permit Required
 PU/CS—Permitted on Unsubdivided Islands and Conditional Use on Subdivided Islands

C. Residential Uses Table 22.16.015-1 Footnotes.

1. Public facilities not otherwise identified may be permitted in the public zone subject to planning commission recommendation and assembly approval subject to findings of fact that show the use is in the public interest; all reasonable safeguards are to be employed to protect the surrounding area;

- and that there are no reasonable alternative locations for the use.
2. All uses in the waterfront district are intended to be water-related or water-dependent except that upland uses may be non-water-related.

PUCS—Permitted on Unsubdivided Islands and Conditional Use on Subdivided Islands
C. Residential Uses Table 22.16.015-1 Footnotes.

1. Public facilities not otherwise identified may be permitted in the public zone subject to planning commission recommendation and assembly approval subject to findings of fact that show the use is in the public interest, all reasonable safeguards are to be employed to protect the surrounding area; and that there are no reasonable alternative locations for the use.
2. All uses in the waterfront district are intended to be water-related or water-dependent except that upland uses may be non-water-related.
3. Uses listed as conditional uses in the GI and LI zones may be considered, but not necessarily approved, on a case-by-case basis.
4. Including zero lot developments.
5. Townhouse, cluster housing developments and planned unit developments are conditional uses subject to this title and Title 21 of this code, Subdivisions.
6. On-site storage of commercial fishing vessels, fishing equipment, and other small business equipment is a permitted conditional use so long as such storage does not occupy more than four hundred square feet.
7. Bed and breakfast establishments are limited to three guest rooms in the R-1, R-1 MH, and R-1 LD districts as conditional uses only when no other rental such as apartments is in operation on the same lot.
8. Bed and breakfast establishments are limited to five guest rooms in the R-2, R-2 MHP districts as conditional uses only when no other rental such as apartments is in operation on the same lot.
9. Short-term rentals including legal nonconforming uses shall provide two off-street parking spaces per unit, comply with the requirements of the building department based on a life safety inspection.
10. Hotels, motels, lodges, boarding houses and bed and breakfasts capable of accommodating a maximum of six persons plus one person for each one-half acre or fraction thereof above one acre on unsubdivided islands are permitted principal uses. Or, bed and breakfast establishments and boarding houses are permitted principal uses. Hotels, motels and lodges are conditional uses.
11. Many of the permitted and conditional uses in the CBD, C-1, C-2, and WD zones generate traffic, noise, odor, and general impacts to a higher level and greater degree than permitted and conditional uses in residential districts. Owners of residential uses in the CBD, C-1, C-2 and WD districts must be aware of and accepting of all the permitted uses in these districts.