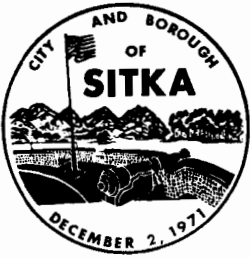


POSSIBLE MOTION

I MOVE TO approve 2011-22 on first reading.



City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

June 6, 2011

MEMO TO: Municipal Administrator Jim Dinley
Mayor and Assembly

FROM: Marlene Campbell, *Marlene Campbell*
Government Relations Director
(Coastal Management Coordinator)

SUBJECT: Adoption of Sitka Coastal Management Program Enforceable Policies into Code

The Alaska State Legislature failed to extend the Alaska Coastal Management Program (ACMP), so the program will automatically terminate (sunset) on July 1, 2011. The City and Borough of Sitka was one of the earliest local governments to have its own approved Coastal Management Program in 1980. City and Borough of Sitka's Coastal Management Plan has been actively managed ever since then, with three Significant Amendments completed in 1989, 1993, and 2007. Of the 35 states eligible to participate in the ACMP, all 35 are participating, and only Alaska is terminating its program.

With the termination of the ACMP, all State statutes and regulations pertaining to the program will be extinguished on July 1. There will be no coordinated consistency review process for permits, and municipalities wishing to comment on individual State or Federal permit reviews will have the same status as any individual. There will be no Federal funding coming to Alaska or being passed on to participating coastal districts or available for coastal grants. CBS has received a minimum of \$24,000 per year to manage its Coastal Program ever since the 1980's.

To be able to comment on coastal permits through the City's previously approved Enforceable Policies, I recommend the Assembly incorporate the CBS Coastal Management Plan Enforceable Policies into the Sitka General Code. Municipalities with Title 29 Authority have been encouraged to locally adopt their policies into their codes in the past, but with the cooperation of State and Federal agencies to honor CBS policies, such redundancy has not been necessary. Now, to retain any policy-level planning authority for coastal management with agencies willing to cooperate with the City, CBS needs to adopt the CBS Coastal Plan by reference and specifically include the Enforceable Policies in the General Code.

An example of how this could be useful is in the area of floathouse management. I contacted the Director of Southeast Region State Department of Natural Resources Division of Mining, Land, and Water to see if DNR will honor the CBS enforceable policies relating to floathouses on State tidelands. He agreed. CBS and DNR have a long-standing cooperative relationship in restricting

private personal use of public tidelands in Sitka Sound from takeover by private floathouses and other floating facilities. DNR will continue to restrict their permits for tidelands use to only those areas approved in the CBS Enforceable Policies. If these policies are allowed to completely terminate, DNR will have no basis for not approving floating facilities wherever people want to put them, regardless of adverse impacts to public use or resources.

While this cooperative relationship will be voluntary once the Coastal Program is terminated, they represent the approved intent of the City and Borough of Sitka and can be a powerful tool in representing the City's and community's preferences through Enforceable Policies approved at all levels after years of public process. Another example of the importance of the Policies is in the Special Management Areas. These sites have been selected as the most important recreational and subsistence use sites in the City and Borough of Sitka and enable the Municipality to comment on activities which could impede public access to or traditional uses of these well-documented, publicly supported areas within the Borough.

It is very important to maintain the same wording as was approved in the current CBS Coastal Program Enforceable Policies. The CBS Coastal Management Program, as revised, has been approved at all governmental levels and went through an extensive public process, beginning with extensive involvement by the Coastal Management Task Force beginning in 2004, a multi-year public process including consultation with State and Federal agencies, community groups, and public hearings, approval of the Sitka Planning Commission, adoption by the Sitka Assembly in Ordinance 2007-02, approval by the Division of Coastal and Ocean Management of the State of Alaska, approval by the National NOAA Office of Coastal and Resource Management, and enactment into law by the Alaska Lieutenant Governor to become effective April 8, 2007. While the CBS Coastal Management Plan will no longer have standing in State law, the approved Plan and its Enforceable Policies will be able to continue to provide a highly credible, valuable, and broadly supported management tool to assist the City and Borough of Sitka in planning and decision-making related to the coastal zone. If the wording of the policies were modified, it would no longer have the standing as part of the approved CBS Coastal Plan.

Since only the Enforceable Policies of the CBS Coastal Management Plan are actually enforceable as part of the Alaska Coastal Management Program, they are the component of the Sitka Plan which should be adopted into the Sitka General Code. All other portions of the Sitka Plan are explanatory and advisory.

If you have any questions, please contact me at 747-1855 or e-mail me at campbell@cityofsitka.com.

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2011-22

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA TO AMEND THE SITKA
GENERAL CODE TO ADD A NEW CHAPTER 20.05, COASTAL MANAGEMENT, TO
ADOPT AND REGULATE ACTIVITIES IN THE SITKA COASTAL MANAGEMENT
AREAS TO COINCIDE WITH COASTAL MANAGEMENT PLANS/REGULATIONS
UNDER THE STATE OF ALASKA (IF APPLICABLE) AND FEDERAL
GOVERNMENT.

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 thereby.

3. **PURPOSE.** This ordinance adopts the previously approved Enforceable Policies of the City and Borough of Sitka Coastal Management Plan, as a regulatory Coastal Zone plan for managing activities occurring on property owned by the City and Borough and provides advisory guidance for permitting for activities in the Coastal Zone throughout the City and Borough of Sitka.

4. **ENACTMENT.** NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough of Sitka that the Sitka General Code is amended to add a new Chapter 20.05, Coastal Management, to read as follows (new language underlined; deleted language stricken):

Title 20

MISCELLANEOUS PERMIT REGULATIONS

Chapters:

20.04 Floodplain Management

20.05 Coastal Management

* * *

Chapter 20.05

COASTAL MANAGEMENT

Section:

20.05.010 Adoption by reference – City and Borough of Sitka Coastal
Management Plan (CMP) Enforceable Policies.

20.05.010 Adoption by reference – City and Borough of Sitka Coastal Management Plan (CMP) Enforceable Policies.

The 2007 City and Borough of Sitka Coastal Management Plan Enforceable Policies, (as numbered in the Sitka Coastal Plan), pages A3 through A-13 and related boundaries and definitions, are adopted by reference, including the policies and map references. The complete 2007 City and Borough of Sitka Coastal Management Plan, which was approved at the local, State, and Federal levels is available on the City and Borough of Sitka website and in hard cover upon request. The City and Borough of Sitka Coastal Management Plan is the official planning document addressing uses and activities in the Sitka Coastal Zone.

5. **EFFECTIVE DATE.** This ordinance becomes 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 28th day of June, 2011.

Cheryl Westover, Mayor

ATTEST:

Colleen Ingman, MMC
Municipal Clerk