

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2024-30

**AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA AMENDING TITLE 14
“STREETS, SIDEWALKS AND PUBLIC PLACES” OF THE SITKA GENERAL CODE BY
AMENDING CHAPTER 14.10 “COMMERCIAL RECREATIONAL USE OF MUNICIPAL
LANDS AND FACILITIES”**

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

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 improve the permit process to include expansion of definitions, establish regular public engagement to establish carrying capacities and land use guidelines, empowering staff to review and issue permits, establish a new process for application, public comment and other administrative guidelines.

4. ENACTMENT. NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough of Sitka that the Sitka General Code Title 14 entitled “Streets, Sidewalks and Public Places”, Chapter 14.10, entitled “Commercial Recreational Use of Municipal Lands and Facilities”, at Sections 14.10.020 entitled “Lands regulated”, 14.10.030 entitled “Permit required for commercial activities”, 14.10.040 entitled “Commercial recreational use permit fees”, 14.10.060 entitled “Permit duration”, 14.10.070 entitled “General operating requirements”, 14.10.080 entitled “Enforcement and penalties”, 14.10.090 to be entitled “Appeals”, and 14.10.100 to be added and entitled “Definitions” be amended to read as follows (deleted language stricken, new language underlined):

**Title 14
STREETS, SIDEWALKS AND PUBLIC PLACES**

Chapters:

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14.10 Commercial Recreational Use of Municipal Lands and Facilities

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**Chapter 14.10
COMMERCIAL RECREATIONAL USE OF MUNICIPAL LANDS AND FACILITIES**

Sections:

- 14.10.010 Policy.
- 14.10.020 Lands regulated.
- 14.10.030 Permit required for commercial activities.
- 14.10.040 Commercial recreational use permit fees.
- 14.10.050 Insurance and indemnification.

- 14.10.060 Permit duration.
- 14.10.070 General operating requirements.
- 14.10.080 Enforcement and penalties.
- 14.10.090 ~~Definitions~~ Appeals.
- 14.10.100 Definitions.

* * *

14.10.020 Lands regulated.

A. This title applies to all municipal lands and facilities related to commercial recreational use, including Baranof Warm Springs and other locations beyond the Sitka road system. This title also applies to all trails owned by and easements held by the city and borough of Sitka for parks and recreation purposes. This title also applies to trails for which the city and borough holds joint jurisdiction with an agency of the state of Alaska or the United States government.

B. Commercial recreational use plan.

1. The parks and recreation committee shall develop, maintain, and recommend for adoption a commercial recreational use plan that identifies municipal lands and facilities at which commercial recreational use may be permitted. The commercial recreational use plan may also contain limitations on commercial recreational use at each recreational site or facility including but not limited to hours of operation, use of recreational equipment, size and number of client groups, etc.

2. The commercial recreational use plan shall be adopted by the city and borough assembly.

3. The commercial recreational use plan may be reviewed periodically by the parks and recreation committee and recommended for modification and/or readoption by the city and borough assembly.

14.10.030 Permit required for commercial activities.

A. No person may conduct commercial recreational activities on city and borough of Sitka lands subject to this title except as authorized by a permit issued by ~~the administrator~~ municipal staff as designated by the administrator.

B. ~~The administrator~~ municipality may issue a permit for commercial recreational activities on city and borough lands ~~that are recommended by the parks and recreation committee after public hearing and notice~~ in accordance with the commercial recreational use plan as described in 14.10.020(B) and subject to such conditions as the ~~administrator~~ municipality may impose and only upon a ~~determination~~ making the following findings and conclusions that the use as proposed:

1. Will not pollute or degrade the environment, resources, facilities, or atmosphere of the area; and
2. Will not endanger the public health, safety, and welfare; and

3. Will not significantly interfere with the use and enjoyment of the area by other members of the public; and

4. Conforms to the commercial recreational use plan as adopted by the assembly.

C. A permit may contain conditions reasonably required for the protection and use of the area for which the permit is granted, including limitations as to time, area, equipment, user loading, traffic, parking, discharges, noise, and other factors.

D. Permit application process.

1. The municipality shall annually establish and publish a schedule for permit application opening and due dates, public comment periods, and permit determinations.

2. The period between permit application opening and due dates shall be no less than thirty (30) days.

3. Within ten (10) days of the permit application due date, applications will be made available to the public to review. The public shall have no fewer than twenty (20) days to provide comment on any application.

4. The municipality shall publish permit determinations. Electronic mail notice, if email address is made available, shall be sent to any person(s) who provided public comment on a permit application.

E. Permit determinations. The municipality may make the following permit determinations:

1. Approve a permit as described in the application;

2. Approve a permit with modifications;

3. Approve a permit with conditions;

4. Deny a permit (reapplication or resubmittal is permitted); or

5. Deny a permit with prejudice (reapplication or resubmittal is not allowed for one year).

In making permit determinations and the required findings and conclusions as described in 14.10.030(B), the municipality shall consider evidence submitted in the application, received through public comment, and found in municipal records.

~~F. D.~~ The administrator municipality may deny a proposed use permit issuance upon a written determination that the use, alone or in combination with other uses, would cause an unreasonable level of environmental degradation, or other disturbance to the area required findings and conclusions as described in 14.10.030 (B) could not be made. In making such determination, the administrator municipality shall consider public comment received, the nature and extent of the use, the number of users, and the impacts likely to result from the use, including traffic, noise, public access, loading, the availability of parking and other factors. The municipality may also deny an application for a permit with prejudice based on the permit

holder's past noncompliance with permit requirements and conditions and/or lack of timely payment of permit fees or other taxes or fees owed to the municipality that have occurred in the previous twelve (12) months.

G. E. A permit is transferable only with the permittee's entire business interest in activities conducted under the permit and only to a person who has successfully completed the permit application process. No credit will be given for any permit payments made by the previous holder of the permit. not transferable. Any new business owner, subsidiary of the primary owner, contractor or other person or entity that obtains the right to operate the business activities contemplated by the permit must apply for and obtain its own permit for those activities.

14.10.040 Commercial recreational use permit fees.

The applicant for a commercial recreational use permit shall pay a fee established by the city and borough assembly that will give the city and borough a fair and reasonable return in light of the cost of administering the activity permitted under the permit, the impact of the proposed activity on the area, the cost of any maintenance and improvements required, and the value of the benefit conferred upon the user. The fee shall be paid prior to the commencement of the permitted activity and should be based on the applicant's best estimate of the number of clients and number of days of permitted activity that he/she expects for that season. Reconciliation is done at the end of the season and can result in a ~~credit being carried over to the following season~~ refund or additional charges. ~~The minimum fee is \$100.00, regardless of whether a commercial operator's service days add up to that amount.~~

* * *

14.10.060 Permit duration.

A. Permits may be issued for a period not to exceed one year.

B. Permits are valid only for the dates, times, activities, and areas specified.

~~C. Permits are not automatically 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.~~ Permit renewals.

1. Permits are not automatically renewable. Applicants may annually apply for a permit renewal if they had a valid permit the previous year.

2. In the issuance of a permit renewal, priority or preferential consideration may be given, but not guaranteed, for proposed use of the same areas and/or related uses.

D. The ~~administrator~~ municipality may issue a temporary permit at any time, valid for not more than 30 days. The application process for a temporary permit shall be ~~the same as for other permits~~ established and published by the municipality.

E. The municipality reserves the right to revoke permitted activity on particular lands or at particular facilities, with or without notice, for any period of time, if commercial recreational use

of said land or facility presents an immediate danger to the public health, safety, or welfare. This provision should be narrowly applied to address hazardous areas or conditions outside the control of permit holders; this provision shall not be used in place of enforcement and penalty provisions found later in this chapter.

14.10.070 General operating requirements

~~A. Permit holders shall have a copy of the permit immediately available for inspection at all times while engaged in activities pursuant to the permit.~~ Permit holder identification.

1. Permit holders and their agents or employees shall have a copy of the permit immediately available for inspection at all times while engaged in activities pursuant to the permit.

2. The municipality shall issue a means of visual identification to permit holders and their agents or employees. Visual identification issued by the municipality must be worn by permit holders and their agents or employees at all times while engaged in activities pursuant to the permit and in a manner that is clearly visible to the public.

3. It is unlawful for a permit holder or their agents or employees to fail to have a copy of their permit immediately available for inspection, or to fail to wear visual identification issued by the municipality in a manner clearly visible to the public, while engaged in activities pursuant to the permit.

B. Permit holders shall be responsible to the city and borough for their actions and those of their agents, employees or customers while engaged in permit activities. The following operating requirements apply to activities conducted under the permit unless otherwise specified in a permit:

1. No one may obstruct traffic, litter, use glass containers, nor disturb, damage, deface or remove natural objects including trees, plants, moss, rock, gravel, or minerals, nor disturb or remove cultural, archaeological, or historical material;

2. Activities conducted under the permit shall be confined to the area stipulated in the permit application except as required for safety reasons;

3. No alterations or improvements to the permitted area are allowed, nor may anything be posted or signs of any kind be installed in the area unless expressly allowed by written permission of the ~~administrator~~ municipality;

4. No one may fish or hunt under this permit unless expressly allowed by written permission of the ~~administrator~~ municipality. No one may harass wildlife. Camping or lighting fires may be permitted in designated areas or areas stipulated in the permit application and subject to approval of the ~~administrator~~ municipality;

5. The permit holder shall promptly notify the ~~administrator~~ municipality of any accident, injury, or claim relating to the permitted activity;

6. The permit holder shall promptly notify the ~~parks and recreation manager~~ municipality of any repair or maintenance needed in the permitted area, or any natural condition which constitutes a hazard. The permit holder shall not make any repair or alteration to the area unless required by an emergency and shall promptly report such repair or alteration to the ~~parks and recreation manager~~ municipality;

7. Permit holders shall comply with all state, federal, and local laws applicable to their activities;

8. Permit holders shall properly dispose of all litter and waste;

9. The permit holder shall reimburse the city and borough of Sitka for any damage to municipal property caused by the permit holder while engaged in permit activities, including the cost of litter abatement, removal of structures or remediation of the site to its original condition;

10. No pets shall accompany any person engaged in permit activities unless the pet is restrained on a leash and all fecal material is promptly removed and properly disposed of;

11. No equipment or supplies may be stored at any municipal facility or permit area unless written approval of by the administrator municipality is secured in advance;

12. All vehicles under the ownership or control of the permit holder shall be lawfully operated or legally parked while the permit holder is engaged in permit activities. The permit holder shall be responsible for following all parking restrictions and requirements imposed by permit conditions.

14.10.080 Enforcement and penalties

~~A. A permit may be suspended by the administrator without advance notice if any activities conducted under the permit present an immediate danger to the public health, welfare, or safety or if the suspension is found to be in the best interests of the city and borough of Sitka.~~

~~B. A permit may be suspended or revoked by the administrator upon written findings that the permit holder has violated these regulations. The permit holder shall be provided at least 10 days' notice and an opportunity to be heard at an informal hearing on the suspension or revocation. The administrator's decision may be appealed to the city and borough assembly by filing a notice of appeal setting forth the reasons the decision is appealed with the city and borough assembly no later than 10 days after the administrator's decision.~~

~~A. G. Any commercial recreational entity found to be operating on municipal lands without a permit from the city and borough of Sitka will be subject to prosecution for an infraction and subject to a fine for that infraction is guilty of a violation, and the offense shall be punishable by a fine of not more than \$500.00. Each and every day during any portion of which a violation is committed, permitted, or continued shall be a separate offense and shall be punished accordingly if so charged.~~

B. Temporary permit suspensions.

298 1. A permit in whole, or particular activities authorized under a permit, may be temporarily
299 suspended for no more than thirty (30) days by the municipality without advance notice if
300 any activities conducted under the permit present an immediate danger to the public health,
301 welfare, or safety, or if the suspension is found to be in the best interests of the city and
302 borough of Sitka.

303
304 2. The municipality shall provide the permit holder with notice of a temporary suspension
305 via electronic mail and certified mail to include:

- 306
307 a. The effective date of temporary suspension;
308
309 b. The permitted activities that are temporarily suspended;
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311 c. The reason(s) for temporary suspension; and
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313 d. Corrective actions for the permit holder to take.

314
315 3. A temporary suspension will automatically be void after thirty (30) days unless the
316 municipality voids it sooner through written notice to the permit holder, or unless the
317 temporary suspension is superseded by an indefinite suspension or revocation. The
318 municipality shall not unreasonably withhold relief of a temporary suspension if the permit
319 holder provides evidence that all reasonable efforts to complete corrective actions as
320 identified in the notice of temporary suspension have been taken.

321
322 C. Indefinite permit suspensions.

323
324 1. A permit in whole, or particular activities authorized under a permit, may be suspended
325 indefinitely by the municipality with no fewer than thirty (30) days advanced notice beginning
326 on the date of electronic mail delivery upon written findings that any permittee activities, or
327 permittee nonaction, violate the provisions of this chapter or any requirements or conditions
328 of the permit. The permit holder may also be subject to fines for such violations as described
329 in section (E)(2).

330
331 2. The municipality shall provide the permit holder with notice of an indefinite suspension
332 via electronic mail and certified mail to include:

- 333
334 a. The effective date of indefinite suspension;
335
336 b. The permitted activities that will be indefinitely suspended;
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338 c. The reason(s) for indefinite suspension;
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340 d. Any fines imposed against the permit holder;
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342 e. Corrective actions for the permit holder to take, including payment of fines, in order
343 to prevent or lift the indefinite suspension.

344
345 3. The indefinite suspension shall remain in effect unless the municipality voids it through
346 written notice to the permit holder. The municipality shall not unreasonably withhold relief of

an indefinite suspension if the permit holder provides evidence that all reasonable efforts to complete corrective actions as identified in the notice of indefinite suspension have been taken.

D. Permit revision and revocation.

1. A permit in whole, or authorization of particular activities under a permit, may be revised or revoked by the municipality with no fewer than thirty (30) days advanced notice beginning on the date of electronic mail delivery if the findings and conclusions listed in 14.10.030(B)(1-4) can no longer be made about the use in practice and as permitted.

2. The municipality shall provide the permit holder with notice of a revision or revocation via electronic mail and certified mail to include:

a. The effective date of revision or revocation;

b. The permitted activities that will be revised or revoked;

c. The reason(s) for revision or revocation;

d. The opportunity for the permit holder to submit a proposal for modification to include alternative revisions, additional permit conditions, or other mitigations for the municipality's consideration within ten (10) days of the notice.

3. If the permit holder submits a proposal for modification, the municipality shall determine whether the findings and conclusions listed in 14.10.030(B)(1-4) can be made about the use as modified within ten (10) days of receiving the permit holder's proposal for modification. A written notice of such determination shall be provided to the permit holder indicating whether:

a. The proposal for modification has been accepted by the municipality, thereby voiding the previous notice of revision or revocation; or

b. The proposal for modification has been rejected by the municipality, thereby validating the previous notice of revision or revocation.

4. In the case a proposal for modification is accepted by the municipality, the municipality will reissue the permit to incorporate the provisions of the accepted modifications.

E. Penalties for permit holder violations.

1. If the municipality finds that a permit holder has grossly under-reported as defined in the application, the number of clients in year-end reconciliation reports, the permit holder shall be required to pay the per client fee for the under-reported clients, as well as a penalty equivalent to two (2) times the per client fee for each under-reported client. Subsequent permits will not be issued until all fees and penalties have been paid.

2. Any other violations of the provisions of this chapter or as outlined in the permit will be subject to a daily violation fine not to exceed more than \$100.00 per day.

396
397 3. Making a false statement or presenting false or purposefully altered documents is
398 prohibited and may be grounds for indefinite permit suspension. This provision applies to all
399 persons, agents, and employees conducting activities under the authority of this permit.
400

401
402 **14.10.090-Definitions Appeals.**
403

404 A. Appeals to the administrator. Appeals of permit determinations, temporary permit
405 suspensions, indefinite permit suspensions, permit revisions or revocations, or any fines or
406 penalties imposed by the municipality shall be heard by the municipal administrator or by his/her
407 designee.
408

409 1. *Filing.* Appeals shall be addressed to the municipal administrator and filed with the
410 municipal clerk within ten (10) days of the permit determination date or notice of suspension,
411 revocation, revocation, or imposition of fines or penalties as applicable.
412

413 2. *Contents.* The appeal shall contain the decision being appealed, the name and address
414 of the appellant and their interest(s) in the matter, the specific reasons why the appellant
415 believes the decision to be wrong, and the desired outcome or requested changes to the
416 decision. The appellant may also, but is not required to, request a hearing before the
417 municipal administrator; such request must be included in the contents of the appeal.
418

419 3. The municipal administrator shall only grant an appeal if they determine that the subject
420 decision was made in error with regards to municipal staff's administration and application of
421 the provisions of this chapter. The appellant shall bear the burden of proving the decision
422 was made in error.
423

424 4. *Hearing.* Upon request for a hearing, a hearing shall be held before the municipal
425 administrator. The hearing shall be set and conducted within five (5) days of the request,
426 holidays, Saturdays, and Sundays not to be included.
427

428 5. *Final Decision.* The municipal administrator shall issue a final decision on the appeal
429 within ten (10) days of the appeal filing date if no hearing was requested, and within fifteen
430 days (15) days of the appeal filing date if a hearing was requested. The parks and recreation
431 committee shall be provided a copy of all final decisions on appeals.
432

433 B. Reconsideration by the assembly. A party to an appeal may seek assembly reconsideration
434 of a final decision as issued by the municipal administrator.
435

436 1. *Filing.* Requests for reconsideration shall be made in writing and filed with the municipal
437 clerk within ten (10) days of the final decision.
438

439 2. *Contents.* The request for reconsideration shall contain the final decision to be
440 reconsidered, the name and address of the requesting party and his/her interest(s) in the
441 matter, the specific reasons why the requesting party believes the decision to be wrong, and
442 the desired outcome or requested changes to the decision.
443

3. The assembly shall only grant a request for reconsideration if it finds by a preponderance of the evidence that the subject denial was made in error. The requesting party shall bear the burden of proving the decision was made in error.

4. The assembly shall consider the request at its next regularly scheduled meeting, at which it may grant or deny the request. If the request is denied, the previous action shall remain final. If the request is granted, the assembly may:

a. Remand the matter back to the municipal administrator, specifying the items or issues to be considered and the timeframe for completing the additional work; or

b. Call for argument. If the assembly calls for argument, the assembly shall set a meeting date to hear argument either in public or executive session. When setting a meeting date to hear argument, the assembly shall also establish the hearing procedure, specify items or issues to be addressed in argument, and identify person(s) to be called for argument. After hearing argument, the assembly may:

i. Uphold the decision as made by the municipal administrator;

ii. Revise the decision as made by the municipal administrator; or

iii. Overturn the decision as made by the municipal administrator.

5. Decisions made by the assembly are final.

14.10.100 Definitions.

As used in this chapter:

“Commercial recreational use” or “commercial purpose” means the sale, delivery, or solicitation to provide goods or services in exchange for valuable consideration. The term includes a service offered in conjunction with another sale of goods or services whether or not it is incidental to, advertised with, or specifically offered in the other sale. All guide, outfitter, and transportation services are commercial activities if any payment or valuable consideration through barter, trade, cash or other commercial means is required, expected or received beyond the normal and customary, equally shared cost of food and fuel for any portion of activities conducted on city lands, trails, boardwalks or easements. Commercial recreational use also includes but is not limited to: fishing; hunting; hiking; biking; photography; nature or cultural history tours; etc.

“Municipal lands” means any real property and improvements owned by the city and borough of Sitka.

“Permittee” or “permit holder” means the business entity or its authorized representative conducting commercial activities in a recreation area according to a permit issued under these regulations.

“Trail” means footpaths, bridle paths, bicycle paths, ski trails, dog sled trails, motorized vehicle trails, a road or street that is open to public and used as a trail and other paths and trails along highways, streets, roads or boardwalks maintained by the city and borough of Sitka.

“Guiding” means providing services or assistance (such as supervision, protection, education, training, packing, touring, transporting people of interpretation) for monetary or other gain to individuals or groups on municipal lands.

“Outfitting” means renting on or delivering to municipal lands for monetary or other gain any vehicle, bicycle, e-bike, boat, kayak, canoe (motorized or human powered), camping gear, or other similar supplies or equipment.

* * *

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 17th day of December, 2024.

Steven Eisenbeisz, Mayor

ATTEST:

Sara Peterson, MMC
Municipal Clerk

1st reading: 11/26/24

2nd and final reading: 12/17/24

Sponsor: Administrator