
MEMORANDUM

To: Mayor McConnell and Assembly Members
Jim Dinley, Municipal Administrator

From: Michael Harmon, Public Works Director *A for*
Gary E. Baugher Jr., Maintenance & Operations Superintendent *GEJ*
Lynne Brandon, Parks & Recreation Manager

Reviewed: Theresa Hillhouse, Municipal Attorney

Date: October 30, 2012

Subject: **Ordinance Revisions to Title 23, Chapter 20; "Commercial Recreational use of Municipal Lands and Facilities"**

Background

Title 23, Chapter 20 of the municipal code provides for commercial recreational use of the City and Borough of Sitka's developed parks and recreation lands. Title 23 establishes a process for issuing annual permits subject to review by the Parks and Recreation Committee and approval by the Municipal Administrator.

Proposed changes to Title 23 will add additional language to facilitate permitting City and Borough facilities that are regulated under Title 23. The purpose for the change is to secure fees for guided commercial use that is occurring on City and Borough Property at Baranof Warm Springs.

Analysis

That Municipal property beyond the Sitka road system, to include Baranof Warm Springs, is subject to commercial recreational use permit requirements. Currently, the ordinance provides for a broad enough interpretation to include this, but has not been applied as such in the past particularly to Baranof Warm Springs. This revision is to clarify that the interpretation relates to all City and Borough of Sitka municipal properties, beyond just the road system property. Currently, a total of Nine Outfitter/Guides hold permits with the US Forest Service for guided activity on USFS lands at the Baranof Warm Springs exist, which may overlap on municipal properties.

The Parks and Recreation Committee unanimously passed a motion in support of the recommended changes to Title 23 at their meeting on October 4, 2012

Fiscal Note

Charge commercial recreational use permits for the use of municipal lands and facilities, including lands beyond the Sitka road system, particularly Baranof Warm Springs.

Recommendation:

Approve recommended changes to Title 23, Chapter 20; “Commercial Recreational Use of Municipal Lands and Facilities” ordinance.

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2012-40

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA AMENDING SITKA GENERAL CODE AT TITLE 23, CHAPTER 20 ENTITLED "COMMERCIAL RECREATIONAL USE OF MUNICIPAL LANDS AND FACILITIES" TO CLARIFY BARANOF WARM SPRINGS AND ITS BOARDWALK AND OTHER MUNICIPAL PROPERTY BEYOND SITKA ROAD SYSTEM IS SUBJECT TO COMMERCIAL RECREATIONAL USE PERMIT REQUIREMENTS

1. CLASSIFICATION. This Ordinance is of a permanent nature and is intended to become 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 circumstances shall not be affected.

3. PURPOSE. This Ordinance amends SGC 20.23 entitled "Commercial Recreational Use Of Municipal Lands And Facilities" to clarify that Baranof Warm Springs and other municipal property beyond the Sitka road system is subject to commercial recreational permit requirements.

4. NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough of Sitka, that SGC 23.20 is amended as follows (new language underlined; deleted language stricken):

23.20.010 Policy.

A. The policy of the city and borough of Sitka concerning the commercial recreational use of municipal lands is to:

1. Maintain and improve municipal lands including parks, open spaces, recreation areas, boardwalks and trails for their primary use by the public and preserve them from activities inconsistent with that primary use;

* * *

4. Charge for commercial recreational use of municipal lands and facilities, including lands beyond the Sitka road system, at a fair rate which reflects the cost of providing any improvements, maintenance, services, and administration necessary for the use;

* * *

1 **23.20.020 Lands regulated.**

2
3 This title applies to all municipal lands and facilities related to commercial recreational use,
4 including Baranof Warm Springs and other locations beyond the Sitka road system. This title
5 also applies to all trails owned by and easements held by the city and borough of Sitka for
6 parks and recreation purposes. This title also applies to trails for which the city and borough
7 holds joint jurisdiction with an agency of the state of Alaska or the United States
8 government.

9 * * *

10 **23.20.090 Definitions.**

11
12 As used in this chapter:

13
14 “Commercial recreational use” or “commercial purpose” means the sale, delivery, or
15 solicitation to provide, goods or services in exchange for valuable consideration. The term
16 includes a service offered in conjunction with another sale of goods or services whether or
17 not it is incidental to, advertised with, or specifically offered in the other sale. All guide,
18 outfitter, and transportation services are commercial activities if any payment or valuable
19 consideration through barter, trade, cash or other commercial means is required, expected or
20 received beyond the normal and customary, equally shared cost of food and fuel for any
21 portion of activities conducted on city lands, trails, boardwalks or easements. Commercial
22 recreational use also includes but is not limited to: fishing; hunting; hiking; biking;
23 photography; nature or cultural history tours; etc.

24
25 * * *

26 “Trail” means footpaths, bridle paths, bicycle paths, ski trails, dog sled trails, motorized
27 vehicle trails, a road or street that is open to public and used as a trail and other paths and
28 trails along highways, streets, ~~or roads~~ or boardwalks, maintained by the city and borough of
29 Sitka.
30

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

33
34 6. **PASSED, APPROVED, AND ADOPTED** by the Assembly of the City and
35 Borough of Sitka, Alaska this 27th day of November, 2012.

36
37
38
39 _____
Mim McConnell, Mayor

40 ATTEST:

41
42
43 _____
44 Colleen Ingman, MMC
Municipal Clerk