

# 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 PERMISSIBLE 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MEDICAL REQUIREMENTS, BY REPEALING SECTION 11.64.010 PEDESTRIAN RULES, AND BY AMENDING SECTION 11.70.010 TO REMOVE OUTDATED HELMET STANDARD REFERENCE**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.

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

**Title 9  
HEALTH AND SANITATION**

Chapter:

9 Footnotes

<sup>1</sup> **Footnote**

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

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

Chapter:

10.24 Fireworks

10.24.050 Permissible sales and uses.

Nothing in this chapter shall be construed to prohibit:

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

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10.24.060 Fireworks defined.

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

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**IV. Offenses Against Public Decency**

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

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

This

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

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10.48 Prostitution

10.48.030 Evidence:

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

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

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#### VIII. Offenses By or Against Minors

10.72 Juvenile Curfew

10.72.070 Penalties.

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

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

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10.84 Liquor Regulations

~~10.84.020 Age.~~

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

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### Title 11

### VEHICLES AND TRAFFIC

11.04 Definitions

11.04.110 Public Holidays

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

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11.40.230 Parking method.

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

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

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11.56.100 Application for driver’s permit.

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

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

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

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11.70.010 Helmet requirements for young persons riding certain vehicles.


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

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 24<sup>th</sup> day of March, 2015.

  
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Matt Hunter, Deputy Mayor

**ATTEST:**

  
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Colleen Ingman, MMC  
Municipal Clerk