

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2021-23

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA AMENDING TITLE 20
“ENVIRONMENTALLY CRITICAL AREAS” OF THE SITKA GENERAL CODE BY
REPEALING CHAPTER 20.01 “LANDSLIDE AREA MANAGEMENT”

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 circumstance shall not be affected.

3. PURPOSE. The purpose of this ordinance is to repeal, in its entirety, Sitka General Code (SGC) Chapter 20.01 entitled “Landslide Area Management”, which was enacted with ordinance 2017-14.

4. ENACTMENT. NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough of Sitka that the Sitka General Code Title 20, entitled “Environmentally Critical Areas” be amended by repealing Chapter 20.01, entitled “Landslide Area Management” to read as follows (deleted language stricken, new language underlined):

Title 20
ENVIRONMENTALLY CRITICAL AREAS

Chapters:

~~20.01~~ ~~Landslide Area Management~~
~~20.04~~ ~~Floodplain Management~~
~~20.05~~ ~~Coastal Management~~

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~~Chapter 20.01~~
LANDSLIDE AREA MANAGEMENT

Sections:

~~20.01.010 Purpose.~~
~~20.01.020 Definitions.~~
~~20.01.030 Special requirements and limitations.~~
~~20.01.040 Waiver of geotechnical evaluation.~~

20.01.010 Purpose.

~~A. The city has a fundamental public duty and desire to provide for and afford to its citizens the opportunity to develop and enjoy the limited land that is available to it. The city also recognizes that its desire to develop the available land is concurrent with the desires and expectations of its citizens.~~

~~B. Based on the immunity provided by AS 09.65.070(d) and common law, the city has sufficient authority, and sufficient protection from liability, to adopt land use regulations, and grant and deny permits, in a manner that supports the development of the various available lots~~

~~in Sitka, while assuring maximum practicable safety for residents of those lots, given the unusual topographical characteristics and extreme meteorological conditions found throughout the borough.~~

~~C.—To best balance the goals of public safety and the ability of its citizens to develop homes and livelihoods, the city requires property owners that are seeking to conduct any major construction activities on any lot in a restricted landslide area, to address that restriction pursuant to the provisions of this chapter.~~

~~D.—The requirements of this chapter are in addition to, not in lieu of, any other requirements of the Sitka General Code.~~

20.01.020 Definitions.

A.—“Restricted landslide area” means:

- ~~1.—Any portion of any lot which has been identified as a moderate or high risk zone in any city geotechnical risk mapping commissioned and received by the city.~~
- ~~2.—For areas not mapped, properties damaged by previous landslides or within one hundred fifty feet of locations damaged by previous landslides.~~

B.—“Major construction activity” means:

- ~~1.—Construction of infrastructure, grading, roadways, utility corridors;~~
- ~~2.—Building construction, placement of a pre-manufactured structure, or any occupancy increase in an existing building;~~
- ~~3.—The term “major construction activity” does not include:~~
 - ~~a.—Construction of residential accessory buildings, such as a garage or shed, which is not occupied as a dwelling unit and is not attached to a principal structure.~~
 - ~~b.—Any project or improvement of a structure to correct an existing violation of a state or local health, sanitary, or safety code regulation, where such violation has been previously identified by the building official and where such activity is the minimum necessary to achieve compliance and safety.~~
 - ~~c.—An addition to structures which adds less than one hundred twenty square feet of new floor area or foundation footprint.~~
 - ~~d.—A boundary lot line adjustment or other minor subdivision alterations, as approved by the planning director.~~
 - ~~e.—Replacement or rehabilitation of existing publicly owned infrastructure, public roadways, or utility corridors.~~

~~C.—“High occupancy commercial use” includes International Building Code occupancy classifications Group A, B, E, F (with employees), H, I, M, R 1, R 2, R 4, S (with employees), or~~

~~U (with employees). It does not include occupancy classification R-3 (single family dwelling and duplex), except that a day care facility with any number of children is considered a high occupancy commercial use for the purposes of this chapter.~~

~~D. "Geotechnical evaluation" means a report completed by a licensed professional engineer specializing in geotechnical practice or a professional geologist with experience with debris flows, assessing the geological hazards of a proposed activity and making recommendations for hazard mitigation. All designs, reports, and calculations associated with mitigation must be stamped by a civil engineer licensed in the state of Alaska. Such an evaluation shall include, at a minimum:~~

- ~~1. A copy of the proposed site plan and proposed development plans;~~
- ~~2. The site's topography and the type and extent of geologic hazards;~~
- ~~3. A review of the site history of landslides and other significant soil movement;~~
- ~~4. Analysis of the project's relationship to the geologic hazards and its potential impacts upon the subject property and adjacent properties;~~
- ~~5. Recommendation for mitigation of hazards, including any no-disturbance buffer, building setbacks, siting requirements, erosion controls, and sewer and drainage restrictions, as well as recommendations for any protective improvements. The mitigation recommendations shall address how the activity maintains or reduces the preexisting level of risk to the site and affected properties on a long-term basis.~~

~~20.01.030 Special requirements and limitations.~~

~~A. Prior to issuance of any city permit, approval, or certificate of occupancy for any major construction activity within a restricted landslide area, the following requirements must be met:~~

- ~~1. Submission and city approval of a geotechnical evaluation, the cost of which shall be borne by the applicant.~~
- ~~2. Where preliminary approval by the planning commission is necessary, such geotechnical evaluation shall be submitted to the planning department thirty days prior to submission to the planning commission.~~

~~B. Prior to the start of any major construction activity within a restricted landslide area, construction of all protective improvements must be completed and approved by the city. Also, an as-built construction report must be approved by the professional designer of record for the applicant and stamped by a civil engineer licensed in the state of Alaska.~~

~~C. All design principles and standards for subdivisions as outlined in Section 21.40.010 shall also apply. In addition, there shall be a plat note stating that approved subdivisions have submitted a geotechnical evaluation and completed all associated mitigation requirements under this section.~~

~~D. The restricted landslide area designation may be removed from a lot or a portion of a lot if the owner(s) submits to the city a geotechnical evaluation which demonstrates to the~~

151 satisfaction of the municipal administrator that such property is not subject to a moderate or high
152 risk from landslide or other significant soil movement.

153 —

154 — Removal of the restricted landslide area designation does not mean that the given land is
155 not at risk for landslide-related damage. Removal recognizes there is sufficient analysis and/or
156 mitigation to allow lifting the special requirements and limitations of this chapter.

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158 E. — A geotechnical evaluation shall not be required for a commercial use project where major
159 foundation construction work, properly permitted, had begun on the site prior to the site being
160 designated to be in a restricted landslide area, provided:

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162 1. — Such major foundation's construction was essential to the project's structural integrity;

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164 2. — Designation of the site as within a restricted landslide area was based solely on city
165 geotechnical risk mapping under Section 20.01.020(A)(1); and

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167 3. — A certificate of occupancy for the project is issued within two years of initial foundation
168 permit approval.

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170 **20.01.040 Waiver of geotechnical evaluation.**

171 A. — Owner(s) of property located in a restricted landslide area will be eligible for waiver of the
172 requirement for a geotechnical evaluation under this chapter. A waiver approved by the city
173 under this section requires execution of a land-use covenant as provided in this section.

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175 B. — High occupancy commercial use projects shall not be eligible for a waiver of the
176 requirement for a geotechnical evaluation.

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178 C. — A land-use covenant required under this section shall be executed prior to the
179 commencement of construction or site alteration, shall be signed by the owner(s) of the
180 property, shall be notarized, and shall be a covenant running with the land. The terms of the
181 covenant shall be tailored to reflect specific site conditions, project features, and commitments,
182 but shall include at least the following:

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184 1. — A legal description of the property;

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186 2. — A copy of any relevant geotechnical data;

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188 3. — A commitment by the owner(s) to maintain the site in such condition and such manner
189 as will prevent harm to the public, to residents of the property, to nearby property, to
190 streets, alleys and drainage facilities;

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192 4. — The application date, type, and number of the permit or approval for which the
193 covenant is required;

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195 5. — Acknowledgment that the owner(s) understand and assume the risk of development
196 and release the city from any claim for losses that are not caused by the city's own
197 negligence;

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6. ~~Indemnification of the city and its officers, employees, contractors, and agents from any claims arising from landslide hazards or failure of the owner(s) to comply with the covenant;~~

7. ~~A waiver and release of any right of the owner(s), the owner's heirs, successors and assigns to assert any claim against the city and its officers, employees, contractors and agents by reason of or arising out of issuance of the permit or approval by the city for the development on the property, or arising out of any inspection, statement, assurance, delay, act or omission by or on behalf of the city related to the permit or approval of the work done thereunder, and agreeing to defend and indemnify the city and its officers, employees, contractors and agents for any liability, claim or demand arising out of any of the foregoing or out of work done or omitted by or for the owner(s), except in each case only for such losses, claims or demands that directly result from the sole negligence of the city; and~~

8. ~~By way of the land use covenant, inform future purchasers and other successors and assignees of the risks and of the advisability of obtaining insurance in addition to standard homeowner's insurance to specifically cover the risks posed by development in a restricted landslide area, including risk of damage from loss of use, personal injury and death resulting from soil and water movement.~~

D. ~~The land use covenant shall be recorded by the city at the State Recorder's Office within the Department of Natural Resources for the Sitka Recording District, at the expense of the owner(s), so as to become part of the state of Alaska's real property records.~~

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

PASSED, APPROVED, AND ADOPTED by the Assembly of the City and Borough of Sitka, Alaska, this 10th day of August, 2021.

Steven Eisenbeisz, Mayor

ATTEST:

Sara Peterson, MMC
Municipal Clerk

1st reading: 7/27/2021

2nd and final reading: 8/10/2021

Sponsors: Knox / Mosher