




City & Borough of Sitka  
**Municipal Clerk's Office**  
100 Lincoln Street, Sitka AK 99835  
Telephone: 907-747-1811 Fax: 907-747-4004



## Memorandum

To: Mayor and Assembly  
From: Municipal Clerk Colleen Ingman   
Date: March 18, 2015  
Subject: **Ordinances resulting from Legal Analysis**

---

In September of 2014, CBS contracted with Code Publishing to complete a legal analysis of our code. Their attorney recommended items that they felt needed immediate action to bring the code into legal compliance and, where possible, has recommended amending language for this purpose.

We considered doing a single "clean-up" ordinance but quickly learned that one clean up ordinance that addressed all the recommendations would be extremely bulky and difficult to follow. It is still our intent to bring forward as few ordinances as possible, but at the same time keep the amendments concise enough that they can be easily understood. We will combine amendments whenever possible.

The attached is an ordinance that resulted from the legal analysis and has been shared with the impacted departments, which have approved that it be moved forward.

Please see the purpose section of the ordinance for clarification.

It is my intent to have all clarifying ordinances passed by the final meeting in April. I have placed them on the Consent Agenda for first reading as the majority will be fairly straight forward, plus we are not required to take public testimony until second reading.

Attachment: Ordinance: 2015-14, 15, 16, 18, 19 & 20

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2015-14

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA, ALASKA PROPOSING TO CLARIFY AND UPDATE THE SITKA GENERAL CODE BY AMENDING TITLE 10 PUBLIC PEACE SAFETY AND MORALS, UNDER CHAPTER 10.88 FIREARMS AT SECTION 10.88.020 PROHIBITIONS, TITLE 13 PORT AND HARBORS UNDER CHAPTER 13.13 AT SECTION 13.13.025 EMISSION OF SOOT FROM AN OIL STOVE IN A VESSEL, TITLE 14 STREETS AND SIDEWALKS, UNDER CHAPTER 14.04 AT SECTION 14.04.020 ICE AND SNOW REMOVAL, TITLE 15 PUBLIC UTILITIES, UNDER CHAPTER 15.05 WATER SYSTEM AT SECTION 15.05.400 CROSS-CONNECTIONS, TITLE 18 PROPERTY ACQUISITION AND DISPOSAL, UNDER CHAPTER 18.08 PERSONAL PROPERTY ACQUISITION AND DISPOSAL AT SECTIONS 18.08.020 A. PERSONAL PROPERTY DEFINITION AND FOOTNOTE 2 TO CORRECT STATUTE REFERENCES, TITLE 19 BUILDING AND CONSTRUCTION, UNDER CHAPTER 19.01 BUILDING CODE AT SECTIONS 19.01.013 ADOPTION OF EXCAVATION AND GRADING STANDARDS, SECTION 19.01.020 PERMITS FEES, SECTION 19.08.040 DEFINITION OF "ISLANDS," TITLE 21 SUBDIVISION CODE UNDER CHAPTER 21.08 DEFINITIONS AT SECTIONS 21.08.050 "E". B., TITLE 22 ZONING, UNDER CHAPTER 22.08 DEFINITIONS AT SECTION 22.08.585 MANUFACTURED HOME, AND SECTION 22.08.590 MOBILE HOME

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 10, Alaska Statute references are corrected to current law.

In Title 13, since the punishment for soot emission from a vessel's oil stove is a fine and not arrest, bail is not a consideration. The final sentence in Section 13.13.025 is corrected to read that the offense is a nuisance.

In Title 14, it is clarified that each property owner is responsible to clear the sidewalks adjacent to their property and not all sidewalks.

In Title 15, the correct edition on cross-connection technology is adopted as the superseded edition.

In Title 18, Alaska Statute references are corrected to current law.

In Title 19, the abbreviation "UBC" is spelled-out. The Building Permit Fee schedule shows the correctly intended beginning valuation for each increment. The spelling of Cape Burunof is corrected.

In Title 21, Alaska Statute references are corrected to current law.

In Title 22, the correct metric conversions are applied.

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 10  
PUBLIC PEACE, SAFETY AND MORALS**

\*\*\*

**Chapter  
10.88 FIREARMS**

\*\*\*

Section  
**10.88.020 Prohibitions.**

It is unlawful for any person to:

A. **It is unlawful for any person to discharge any firearm within the boundaries of the central business district, waterfront district, hospitals, any public school premises, including adjacent parking lots, in or around a child care facility, in a courthouse, court room, or office of the court system or justice related agencies, in domestic violence or sexual assault shelters and the City Hall and Harrigan Centennial Building and their parking lots;**

B. **It is unlawful for any person to intentionally point or aim any firearm, loaded or otherwise, at any person;**

C. ~~Carry a concealed firearm on his/her person except with a permit issued under AS 18.65.700 et seq.;~~

**The municipality may not restrict the carrying of a concealed handgun by permit under AS 18.65.700 – 18.65.790. There is no prohibition against carrying a concealed weapon so long as the prohibited behaviors regarding the carry are respected:**

- **The person is 21 years or older.**
- **The person is eligible to own or possess a handgun under state and federal laws**
- **The firearm is legal.**

- 88 • Upon contact with a peace officer, the person immediately informs the officer  
89 about the weapon, and allows the officer to secure the weapon for the  
90 duration of the contact.
- 91 • The person does not carry the weapon if they are intoxicated or impaired by  
92 alcohol or controlled substances
- 93 • The person does not carry the concealed weapon in certain places:
  - 94 ○ In someone else's home without their specific knowledge and  
95 permission
  - 96 ○ In any place where intoxicating liquor is sold for on-site consumption,  
97 except a restaurant and the person does not consume alcoholic  
98 beverages
  - 99 ○ In or around any public or private K-12 school or on a school bus  
100 without the knowledge and consent of the school's administrator  
101 (weapons may be unloaded and locked in the trunk of a car or secured  
102 in a locked container).
  - 103 ○ In or around a child care facility (weapons may be unloaded and locked  
104 in the trunk of a car or secured in a locked container).
  - 105 ○ In a courthouse, court room, or office of the court system or justice  
106 related agencies,
  - 107 ○ In domestic violence or sexual assault shelters.

108 Alaska's laws do not apply to federal property, offices, installations, or places under  
109 federal jurisdiction. Such places can include national parks, military bases, federal  
110 court buildings, space rented by federal offices, airports, or airport terminal areas.  
111 Please consult with the appropriate federal agency before deciding if weapon carry  
112 or concealed carry is permitted.

113 The owners or management of facilities, including such places as hospitals,  
114 universities, gymnasiums, or private property, may restrict or deny concealed carry  
115 on their premises. Failure to comply while on their property could violate trespass  
116 statutes.

117 ~~D.— Carry a loaded firearm within the boundaries of the central business district,~~  
118 ~~waterfront district, hospitals, any public school premises, including adjacent parking lots,~~  
119 ~~and the City Hall and Centennial Building and their parking lots except under such permit~~  
120 ~~as described in subsection C of this section.~~

121 ~~E. D. The prohibitions stated in this section shall not apply to sworn peace officers or a~~  
122 ~~person in premises owned or leased by that person and applicable defenses such as self~~  
123 ~~defense self-defense or defense of others should apply.~~

125  
126  
127  
128  
129  
130  
131  
132  
133  
134  
135  
136  
137  
138  
139  
140  
141  
142  
143  
144  
145  
146  
147  
148  
149  
150  
151  
152  
153  
154  
155  
156  
157  
158  
159  
160  
161  
162  
163  
164  
165  
166  
167  
168  
169  
170  
171  
172

**Title 13  
PORT AND HARBORS**

\*\*\*

**Chapter 13.13  
Nuisances**

\*\*\*

Section

**13.13.025 Emission of soot from an oil stove in a vessel.**

Each owner and operator of a vessel in the harbor system shall take all reasonable measures to prevent the emission of soot from oil stoves. If a vessel's oil stove emits soot that settles onto or touches another vessel, the owner or operator of the vessel from which the soot came shall face a correctional citation, and if not corrected shall pay the fine imposed in Section [13.12.050](#)(D). ~~The first and second offenses shall be bailable. A person cited for a~~ Third offense of emission of soot from an oil stove shall be declared a nuisance.

\*\*\*

**Title 14  
STREETS AND SIDEWALKS**

\*\*\*

**Chapter 14.04  
ICE AND SNOW REMOVAL**

\*\*\*

Section

**14.04.020 Ice and snow removal.**

**All property owners are responsible for keeping the portions of sidewalks or public thoroughfares that are adjacent to their property free of snow and ice and clear of all other obstructions or menaces dangerous to life or limb.** ~~All property owners owning property abutting any sidewalk or public thoroughfare shall keep the sidewalk or thoroughfare free of snow and ice and all other obstructions or menaces dangerous to life or limb.~~ A reasonable time after snowfall shall be allowed to remove the snow.

\*\*\*

**Title 15  
PUBLIC UTILITIES**

\*\*\*

**Chapter 15.05  
WATER SYSTEM**

\*\*\*

173 Section  
174 **15.05.400 Cross-connections.**  
175 B. Use of Backflow Prevention Devices.  
176 5. The policies, procedures, and criteria for determining appropriate  
177 levels of protection shall be in accordance with the "Accepted Procedure  
178 and Practice in Cross-Connection Control Manual—Pacific Northwest  
179 Section—American Waterworks Association," **Seventh** ~~Third~~ Edition," or  
180 any superseding edition."  
181 \* \* \*

182  
183  
184 **Title 18**  
185 **PROPERTY ACQUISITION AND DISPOSAL**

186 \* \* \*  
187  
188 **Chapter 18.08**  
189 **PERSONAL PROPERTY ACQUISITION AND DISPOSAL**

190 \* \* \*  
191 Section  
192 **18.08.20 Disposal.**  
193 A. "Personal property" means only tangible personal property and that  
194 property which is not land or permanently attached to land and more  
195 particularly as defined in **AS 29.71.800 (16)**. A.S. ~~29.78.010 (10)~~.  
196

197 \* \* \*  
198  
199 **TITLE 18 FOOTNOTES**

200 **2** For the statutory provisions regarding eminent domain powers of home  
201 rule municipalities, see AS **29.35.030** ~~29.73.020~~ and **9.55.250 – 9.55.460**.  
202 ~~9.55.250 § 9.55.460~~.

203 \* \* \*  
204  
205 **Title 19**  
206 **BUILDING AND CONSTRUCTION**  
207 **Chapter 19.01**  
208 **BUILDING CODE**

209 \* \* \*  
210 Section  
211 **19.01.013 Adoption of excavation and grading standards.**  
212 1997 **Uniform Building Code (UBC)** UBC Appendix Chapter 33, Excavation  
213 and Grading, as modified by the published building department policy, is  
214 adopted and included in the building code by reference.

215 Section  
216 **19.01.020 Permit fees.**

**BUILDING PERMIT FEE SCHEDULE FOR R-3 AND U OCCUPANCIES**

TOTAL VALUATION	FEE
\$1.00 to \$2,000.00	\$46.35
<del>\$2,000.01</del> <del>\$2,001.00</del> to \$25,000.00	\$46.35 for the first \$2,000.00 plus \$9.27 for each additional \$1,000.00 or fraction thereof, to and including \$25,000.00
<del>\$25,000.01</del> <del>\$25,001.00</del> to \$50,000.00	\$259.56 for the first \$25,000.00 plus \$6.70 for each additional \$1,000.00 or fraction thereof, to and including \$50,000.00
<del>\$50,000.01</del> <del>\$50,001.00</del> to \$100,000.00	\$426.94 for the first \$50,000.00 plus \$4.64 for each additional \$1,000.00 or fraction thereof, to and including \$100,000.00
<del>\$100,000.01</del> <del>\$100,001.00</del> to \$500,000.00	\$658.69 for the first \$100,000.00 plus \$3.61 for each additional \$1,000.00 or fraction thereof, to and including \$500,000.00
<del>\$500,000.01</del> <del>\$500,001.00</del> to \$1,000,000.00	\$2,100.69 for the first \$500,000.00 plus \$3.10 for each additional \$1,000.00 or fraction thereof, to and including \$1,000,000.00
<del>\$1,000,000.01</del> <del>\$1,000,001.00</del> and up	\$3,645.69 for the first \$1,000,000.00 plus \$2.10 for each additional \$1,000.00 or fraction thereof

\*\*\*

**Chapter 19.08  
CODE APPLICABILITY**

\*\*\*

Section

**19.08.040 Definition of "islands" for purposes of this title and Title 22.**

For purposes of this title and Title 22, the definition of "islands" will be the islands in Sitka Sound from the Siginaka Islands to Cape Burunof ~~Buronef~~ which are not on the Sitka road system.

\*\*\*

**Title 21  
SUBDIVISION CODE**

\*\*\*

**Chapter 21.08  
DEFINITIONS**

\*\*\*

Section

**21.08.050 "E".**

\*\*\*

B. "Engineer" means a registered, professional, civil engineer authorized to practice engineering in the state of Alaska. Engineers perform the consultation, investigation, evaluation, planning, design, and inspection of private and public works, structures, or projects. Unless also qualified as a surveyor, an engineer may not engage in the preparation of subdivisions. (Cross reference: AS 08.48.291, ~~AS 08.48.291(8)~~).

217  
218  
219  
220  
221  
222  
223  
224  
225  
226  
227  
228  
229  
230  
231  
232  
233  
234  
235  
236  
237  
238  
239  
240  
241  
242  
243

\*\*\*  
**Title 22**  
**ZONING**  
\*\*\*

**Chapter 22.08**  
**DEFINITIONS**  
\*\*\*

Section

**22.08.585 Manufactured home.**

“Manufactured home” means a structure constructed on or after June 15, 1976, according to the United States Department of Housing and Urban Development (“HUD”) standards, transportable in one or more sections which, in the traveling mode is eight feet **(two thousand, four hundred thirty-eight millimeters)** ~~(two thousand one hundred thirty-eight millimeters)~~ or more in width or ....

Section

**22.08.590 Mobile home.**

“Mobile home” means a structure that was constructed before June 15, 1976, transportable in one or more sections, which, in the traveling mode, is eight feet **(two thousand, four hundred thirty-eight millimeters)** ~~(two thousand one hundred thirty-eight millimeters))~~ or more in width or ....

\*\*\*

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 28th day of April, 2015.

\_\_\_\_\_  
Mim McConnell, Mayor

**ATTEST:**

\_\_\_\_\_  
Colleen Ingman, MMC  
Municipal Clerk



2015-19

48.	<b>10.84.049 Access of persons under the age of twenty-one to licensed premises.</b> Subsection (C)(3) refers to the Alaska Department of Labor. Its current name is the Alaska Department of Labor and Workforce Development. <b>Recommendation:</b> Shall we update the name?	<b>Action</b> ✓
49.	<b>10.84.050 Possession or consumption by persons under the age of twenty-one.</b> Subsection (K)(1) of this section refers to AS 28.40.100. That section has been renumbered to AS 28.90.990. <b>Recommendation:</b> Shall we update the reference?	✓
50.	<b>10.88.020 Prohibitions.</b> Subsection (C) refers to AS 1865.700. This is a typographical error for AS 18.65.700. <b>Recommendation:</b> Shall we correct the reference?	✓

ORD  
2015-19

10-88.020 Prohibited

C: person conceal  
Conflict w/ State

2015-14

Sitka General Code Legal Review

	Title 14, Streets and Sidewalks	Action
64.	<p><b>14.04.020 Ice and snow removal.</b> This section requires “All property owners owning property abutting any sidewalk or public thoroughfare” to “keep the sidewalk or thoroughfare free of snow and ice.” As worded, this makes each property owner individually liable for the entire sidewalk/thoroughfare no matter its length or how little or much of the property abuts it.</p> <p><b>Recommendation:</b> If this is unintended, the City and Borough should amend this section by ordinance to change “the sidewalk or thoroughfare” to “the section of sidewalk or thoroughfare adjacent to the property” or similar language.</p>	○
65.	<p><b>14.12.010 Erection of signs along municipal streets, highways, and sidewalks.</b> Subsection (C) of this section refers to a sign that is “safety constructed.” This appears to be a typo for “safely constructed.”</p> <p><b>Recommendation:</b> Shall we change “safety” to “safely”?</p>	✓
69.	<p><b>15.05.400 Cross-connections.</b> Subsections (A) and (B)(5) use a standard of <i>Accepted Procedure and Practice in Cross Connection Control, Third Edition</i>, “or any superseding edition.” ((A) refers to the “latest edition.”) From a legal standpoint, there is no superseding edition until the City and Borough adopts it, so the <i>Third Edition</i> continues to control Sitka cross-connection policies. The most recent edition of the publication is the <i>Seventh Edition</i>.</p> <p><b>Recommendation:</b> If the City and Borough wishes to adopt the Seventh Edition, it should adopt it specifically with an ordinance.</p>	○

Sitka General Code Legal Review

	Title 18, Property Acquisition and Disposal	Action
73.	<p><b>18.04.010 Definitions.</b> Subsections (E), (G), and (H) reference specific NOAA data.</p> <p><b>Recommendation:</b> If these have changed since 1983, the City and Borough should amend this section by ordinance either to update the data (with a need to update it whenever it changes) or to delete specific references to data (so that this section does not need updating).</p>	—
74.	<p>Subsection (I) refers to AS 29.78.010 (10). That section has been repealed; current State definition of “personal property” is in AS 29.71.800(16).</p> <p><b>Recommendation:</b> Referring to this new law requires <u>an amending ordinance</u>.</p>	○
75.	<p><b>Footnote 2.</b> This footnote refers to AS 29.73.020 regarding eminent domain. That section has been repealed; current law on the subject is at AS 29.35.030.</p> <p><b>Recommendation:</b> Referencing this new law requires an amending ordinance.</p>	○

62. **13.13.025 Emission of soot from an oil stove in a vessel.** This section states that the first two offenses of soot emission are "bailable," although the only punishment listed is a fine and arrest is not contemplated. It is therefore unclear how these offenses are bailable.  
**Recommendation:** If the City and Borough wishes to clarify, it should amend this section by ordinance.

O  
P+H  
D/H

... that "A person cited for a third offense of emission of

78.	<b>19.01.013 Adoption of excavation and grading standards.</b> This section refers to the UBC. As nothing else in the chapter refers to the Uniform Building Code, a housekeeping ordinance should amend this section from "UBC" to "Uniform Building Code" for clarity. <b>Recommendation:</b> No action is required, but the City and Borough should amend for clarity at some point.	<input type="checkbox"/>
81.	<b>19.01.020 Permit fees.</b> This section refers to International Building Code Section 108.2, Fees. This appears to be a typographical error for Section 109.2, Schedule of Permit Fees. If the City and Borough confirms this as an error, we can correct it. <b>Recommendation:</b> Shall we correct the reference?	<input type="checkbox"/>
89.	<b>19.08.640 Definition of "Islands" for purposes of this title and Title 22.</b> This section refers to Cape Burunof. <b>Recommendation:</b> Shall we correct this name to Cape Burunof?	<input type="checkbox"/>
92.	<b>21.08.050 "E."</b> Subsection (B) refers to AS 08.48.291(8). 08.48.291 exists, but it has no subsections; it is unclear where this citation is meant to point. <b>Recommendation:</b> If the City and Borough confirms what this was intended to say, we can correct it; otherwise, an ordinance should amend this section as necessary.	<input type="checkbox"/>

Sitka General Code Legal Review

	<b>Title 22, Zoning</b>	<b>Action</b>
96.	<b>22.08.585 Manufactured home.</b> This section defines manufactured home in part by its traveling width: minimum "eight feet (two thousand one hundred thirty-eight millimeters)." Eight feet is just over 2,438 millimeters; seven feet is just under 2,134 millimeters. If the City and Borough confirms the foot or the millimeter measurement as a typographical error, we can correct it. <b>Recommendation:</b> Shall we correct this section?	<input type="checkbox"/>
97.	<b>22.08.590 Mobile home.</b> Regarding the definition in this section, see comment for 22.08.585. <b>Recommendation:</b> Shall we correct this section?	<input type="checkbox"/>