


# City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

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## Memorandum

To: Chris Brewton, Acting Municipal Administrator  
Mayor McConnell and Assembly Members

From: Wells Williams, Planning Director 

Subject: Pedi Cab Recommendations

Date: April 3, 2013

The Planning Commission considered Mr. John Welsh's request to sell food items from the back of a bicycle on public property and right of ways during the board's April 2<sup>nd</sup> meeting. The Planning Commission had previously discussed the issue detail on March 5<sup>th</sup>.

The Police and Fire Commission also considered the matter on March 13<sup>th</sup>.

The Planning Commission's discussions included lengthy dialogue with Mr. Welsh and an analysis of four Sitka General Code chapters.

The conversations with Mr. Welsh were designed to get a full understanding of his concept and to see if he was agreeable to not sell around the congested Lincoln Street right of way.

The provisions of the Sitka General Code that were reviewed by the Planning Commission included 1) the zoning code that regulates the uses allowed in zoning districts, 2) SGC Chapter 14.16 that covers the regulation of obstruction of sidewalks, 3) SGC Chapter 6.19 that covers the regulation of tour operators on public property, and 4) SGC Chapter 6.16 that covers sales on public property. The board ultimately focused on SGC Chapters 6.16 and 6.19.

The issues the board appeared to be primarily concerned with were impacts on traffic flow, the potential for a proliferation of sales from bicycles, and the public equity issue of granting an unfair business advantage to a business that does not incur fixed costs. Historically, municipal policy governing sales on public property has dealt with the last concern.

Following the suggestion of staff, the Planning Commission considered three separate motions. Those motions used the current prohibitions, outlined in the first paragraph of SGC Chapter 6.16 as the starting point. Since the permitting provisions in SGC 6.19 are already in place, set a fee structure, and required that permits be granted one year at a time, the Planning Commission intentionally incorporated those requirements by reference.

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*Providing for today...preparing for tomorrow*

The three motions are provided below.

MOTION: M/S SPIVEY/WINDSOR moved by the Planning Commission that sale on right of ways and public property in the Central Business District not be considered by the Assembly based on testimony by applicant Mr. John Welsh that he is not actively requesting that area. Motion PASSED UNANIMOUSLY.

( This motion effectively recommends that the code not be changed to allow pedicabs to operate on the Lincoln Street right of way and portions of the Katlian Street right of way. Those right of ways are in the CBD Central Business district. )

MOTION: M/S PARMELEE/WINDSOR moved by the Planning Commission to recommend to the Assembly, that an ordinance be drafted to amend SGC 6.16 to allow for sales of goods and services from pedicabs on right of ways in public use zone and on public properties in the public use zone including public boat harbors through a permitting process that is consistent with the permits issued under 6.16.010A and the permitting requirements under SGC 6.19.

Motion PASSED 4 to 1 with WESTOVER AGAINST on a voice vote.

Motion: M/S SPIVEY/PARMELEE moved by the Planning Commission to recommend to the Assembly that sales of goods from pedicabs be allowed on port and harbors and other publicly owned property including but not limited to Eliason Harbor and Sealing Cove. Consistent with the provisions in SGC 6.19.

Motion PASSED 4 to 1 with WESTOVER AGAINST on a voice vote.

( SGC Chapter 6.16 refers to sales in the Central Business District, sales in publicly zoned areas such as the P Public Lands zone, and on publicly owned areas. Mr. Welsh stated he wanted to be able to sell on harbor parking lots. We have harbors in both the P Public zone and in the WD Waterfront zone. The third motion would allow him to sell at Eliason Harbor. )

The minutes of the Police and Fire meeting of March 13<sup>th</sup>, 2013 are attached for ease of review.

Relevant code sections and correspondence are also provided.

#### Recommended Action –

Consider the issues and direct staff to prepare an ordinance amending if SGC Chapter 6.16 desired.



# SITKA POLICE AND FIRE COMMISSION

Wednesday, March 13, 2013  
Harrigan Centennial Hall

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## Regular Meeting Minutes

### A. CALL TO ORDER

Chairman Armstrong called the meeting to order at 6:03 PM.

Present: Rick Armstrong, Aaron Swanson, Don Jones, Joe Reeves  
and Aaron Wamsley

Assembly Liaison: Matthew Hunter

City Staff: Fire Chief Miller, Police Chief Schmitt, SPD Admin  
Assistant Serena Wild

### B. INTRODUCTION OF NEW MEMBER(S)

Chair Armstrong welcomed back Joe Reeves and introduced Aaron Wamsley.

### C. ADDITIONS TO THE AGENDA

None

### D. APPROVAL OF MINUTES – February 6, 2013

Jones clarified the person he spoke of interested in apply was from the National Park Service not the Forest Service.

**Motion: M-Armstrong/S-Swanson to approve February 6, 2013 minutes.**

**Action: Motion passed by unanimous consent.**

### E. PUBLIC PARTICIPATION FOR ITEMS OFF THE AGENDA

Betty Jo Moore thanked the Commission for listening about the safe work place/anti-bullying issue. She explained the Proclamation had been presented on February 16<sup>th</sup> at the Elizabeth Peratrovich Day celebration. Moore stated she was cyber bullied within hours of the Proclamation being read and then again a few days later. She emailed from the Congressman all the way to the Mayor and got positive feedback. She again thanked the Commission for all their help.

### F. CORRESPONDENCE

None

### G. REPORTS

1. Liaison – Hunter thanked the Commission for what they do and their help.
2. Police Chief – Welcomed the new members to the Commission. He stated that there had been a few significant meth and heroin cases last month and a major sex case in the school district. Another major sex case will be in the papers soon as it gets wrapped up. Drug use is up so there for the number of arrests are up. The department received their new vehicles, Ford Explorers. The shower in the jail had some maintenance done on it. The hiring process for another police officer is happening again. There are only 8 officer and will be losing another next month. Jones questioned the process of how to get the frozen positions opened back up.
3. Fire Chief – First fire the other day in a long time. It was a smoke house fire. Have a large EMT class right now, 18 students. VPSO class happening at the Trooper Academy and they will be doing their fire training soon with the department. Starting next Monday, about 100 people will be coming into town for a large ORCA Hazmat drill

designed for rural Alaska. Assistant Fire Chief Al Stevens has been spearheading the drill and has been getting everything organized. Fire Chief has been working on budget for next year and have been asked to make more cuts. Hired a new engineer as one of the current engineers is moving to Juneau and another is on medical leave.

#### **H. UNFINISHED BUSINESS**

None

#### **I. NEW BUSINESS**

1. Discussion of Ordinance pertaining to dogs allowed on ball fields –

Chief Schmitt explained the draft ordinance was one that would go forward to the Assembly. Jones explained even though he doesn't have children or grandchildren here, he believes dogs should not be allowed on fields children use. Swanson was concerned about the enforcement of the potential new laws as the Police Department is already under staffed. Chief Schmitt explained that right now the implication was that the Commission supported the new ordinance and just wanted clarification to make sure that statement was accurate.

Betty Jo Moore spoke in agreement with Jones & Swanson both and questioned how many citations had been issued regarding the leash and poop scooping laws. Chief Schmitt stated about 150 citations for dogs running at large and less than 10 for the scoop law with the animal control officer writing most of them.

**Motion: M-Armstrong/S-Swanson to support the new ordinance**

**Action: 4 in support 1 against**

2. Request for food sales by pedicab –

John Welsh came forward and explained his concept for his pedicab food sales business. Chief Schmitt asked what kind of bike he would be using, to which Mr. Welsh explained it was a three wheel bike widened to about 40 inches. He went onto say that he would have no passengers and would only be stopping in public parking spaces to sell food. Also he would avoid high congestion areas. Jones questioned on how to keep pedestrians safe and out of traffic. Mr. Welsh stated he would position his cart so people would only be able to purchase food from the sidewalk. The Commission decided that there weren't any traffic or fire safety issue for the pedicab and would forward their findings onto the Assembly and Planning Commission.

#### **J. COMMISSIONER COMMENTS**

Reeves – received a letter concerning the feeding of wildlife at Swan Lake. Chief Schmitt was asked to look into the matter.

Jones – as been attending the Walk Friendly Community Group meetings whose goal is to make Sitka a nationally recognized Walk Friendly Community. They have been encouraging safer walking conditions in Sitka and believe public education is key. Jones would like to be a liaison between the Walk Friendly Community as they would like the support of the Police and Fire Commission in their mission.

#### **K. NEXT MEETING DATE AND AGENDA ITEMS**

Next meeting: **Wednesday, April 3, 2013 at 6 pm.**

Agenda items: Walk Friendly Communities.

#### **L. ADJORNMENT**

Chairman Armstrong adjourned the meeting at 6:58 pm.



PROPOSAL to the Planning Commision, CITY OF SITKA

**Re: Permit for Food Cart Sales by Cycle-Mounted Kitchen on City of Sitka Streets and Parking Areas such as Library, Harbors and Neighborhood Parking Strips:**

Mobile food carts on wheels are permitted uses on private property. However, the use of public areas for sales must be permitted by the assembly. Such permits may be granted by the Assembly on recommendation by the Planning Department. John and Maria Welsh respectfully request such a permit.

The business will be properly licensed, registered and operated in compliance with all regulations, especially health and fire rules. Taxi regulations do not apply, as no passengers will be carried. A human powered bicycle, tricycle or pedicab can circulate in traffic anywhere allowed under the rules that apply to all bicycles.

**Description of Operations Requested:**

The year-around plan is to sell hot food such as gyros, hotdogs and tacos from the curb, while stopped in city parking spaces. Snack items, ice-cream and non-alcoholic beverages also may be sold. Food will be prepared on the cart and/or sold pre-packaged using facilities and procedures approved and inspected by the health department. (DEC)

Customers will hail for service, or the food service cycle may stand temporarily in parking spots, following the parking rules for all vehicles, including the time limits set for vehicles. The cart will not stand on sidewalks, but customers may be on the sidewalk while the cart serves them from the street.

Sales will not take place with the cycle situated anywhere except the street or parking lot spaces, but the food cycle may transit anywhere other bicycles are permitted, in such a manner as not to impede pedestrians.

The food cycle also may circulate in residential areas, stopping in parking areas to sell from the curb when hailed.

Sales always will occur in a sanitary way, protecting the surrounding area and the environment.

Thank you.  
John Welsh




 
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Peter Hahn, Director

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## SDOT Street Use Vending Permits

Effective August 22, 2011

### Overview

The City Council and the Mayor adopted Ordinance 123659 regarding street-food vending in July of 2011. The new legislation streamlines the rules and regulations for street-food vending, making it easier to be a street-food vendor in Seattle. The City of Seattle encourages street-food vending to increase public use, enjoyment, and safety of our public right-of-way. With proper design and management, street-food vending can be a great way to encourage walking, add vitality to the street, and promote local economic development.

Vending in public right-of-way requires a Street Use Permit from the Seattle Department of Transportation (SDOT). There are several different types of Street Use vending permits: Sidewalk or Plaza Vending, Curb Space Vending (Designated Food-Vehicle Zone or Temporary Curb Space Activity), Stadium and Event Center Vending, Mobile Food Vending, and First Amendment Vending.

### VENDING PERMIT TYPES

Read the following summary and decide which type of vending permit is right for your business.

1. **Sidewalk or Plaza Vending** This type of Street Use permit is valid for one year and is issued based on daytime (6 AM – 8 PM) or nighttime (8 PM – 6 AM) use.
  - Vending of food or flowers from a vending cart:
    - Allowed at a specific site on a public sidewalk or plaza; and
    - Maximum limit of two vending carts on sidewalk per block face.
  - Vending of food from a food vehicle:
    - Allowed at a specific site on a public plaza.

See [CAM 2501](#), Sidewalk and Plaza Street-Food Vending, for additional information.

2. **Curb Space Vending** Vending of food from a food vehicle is also allowed in a curb space with a valid Street Use vending permit for a specific location and time period. The curb space vending

### Overview

#### Vending Permit Types:

- [Sidewalk or Plaza Vending](#)
- [Curb Space Vending](#)
- \* [Designated Food-Vehicle Zone](#)
- \* [Temporary Curb Space Vending](#)
- [Stadium and Event Center Vending](#)
- [Mobile Food Vending](#)
- [First Amendment Vending](#)

#### Street Use Vending Permit Application

#### Contact Information

#### Public Notice of Pending SDOT Vending Applications

#### SDOT Decisions on SDOT Vending Applications

#### List of SDOT Permitted Vending Sites

#### Additional Resources

#### [CAM 2501: Sidewalk and Plaza Street-Food Vending](#)

#### [CAM 2507: Curb Space Food-Vehicle Zone Vending](#)

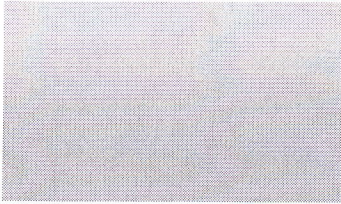
#### [CAM 2508: Stadium and Event Center Vending](#)

#### [CAM 2510: Temporary Curb Space Vending](#)

#### [CAM 2102: Insurance Requirements](#)

For info on how to obtain





may occur from a designated **Food-Vehicle Zone** or as a **temporary special activity** associated with an event on the adjoining property.

- **Designated Food-Vehicle Zone.** A food vehicle vendor may vend from a curb space that has been signed and designated by SDOT as a Food-Vehicle Zone.
  - Allowed only for permitted days and times. This type of permit is issued in 4-hour weekly increments. (For example, every Monday, Wednesday, and Friday from 10 AM – 2 PM.)
  - This type of Street Use permit is valid for one year and is issued based on daytime (6 AM – 8 PM) or nighttime (8 PM – 6 AM) use.
  - Maximum limit of one food-vehicle zone per block face and no more than two food vehicles may be allowed in any one food-vehicle zone unless more is authorized by the SDOT Director.

For more on how to obtain other required permits ex. Fire, Health, etc [Office of Economic Development vending web portal](#)

[Ordinance 123659](#)

[SDOT Director's Rule 3-2011](#)

[SDOT Director's Rule 6-2012](#)

SMC Chapter 15.17, [Vending](#)

SMC Title 11, [Traffic Code](#)

SMC Chapter 25.08, [Noise Control](#)

The City of Seattle [zoning map](#)

See [CAM 2507](#), Curb Space Food-Vehicle Zone Vending, for additional information.

- **Temporary Curb Space Activity.** A food-vehicle vendor may vend from a curb space in conjunction with an event located on private property abutting the curb space or an event occurring in the public place.
  - Allowed only for permitted days and times. The vendor may only vend from the curb space during the allowable times on their Street Use permit.
  - This type of Street Use permit may be obtained by the vendor, adjacent property owner, or a public entity for no more than four days during a 6-month period for the adjoining address in commercial zones or for no more than one day during a calendar year for a block in a residential zone.
  - Additional Street Use permits may be required if the adjoining public place (sidewalk or street) is proposed to be closed for the special activity.

See [CAM 2510](#), Temporary Curb Space Vending, for additional information.

3. **Stadium and Event Center Vending.** A vendor may vend goods, things, services, food, or nonalcoholic beverages of any kind from a temporary display table, tent, vending cart, or food vehicle during event days at a specific site in the authorized Stadium Event Vending area.
  - This type of Street Use permit may be issued on a monthly basis or for a 6-month season (April-September or October-March).

See [CAM 2508](#), Stadium & Event Center Vending, for additional information.

4. **Mobile-Food Vending.** A vendor may vend food that is exempt from a King County Health Department Mobile Food Unit permit in the public place (for example, pre-packaged ice cream).
  - This type of Street Use vending permit is not location specific and the vendor is allowed to move around from place to place, but is restricted from certain parts of the city.
  - In addition, mobile-food vending is not allowed within 50 feet of any public park, as defined in SMC Chapter 18.12; 1,000 feet of any public or private school containing a Kindergarten through 12th-grade class; 50 feet from any food-service business; or within loading zones.
  - The mobile-food vendor shall obey all traffic rules, Title 11, and comply

with the Noise Ordinance, SMC Chapter 25.08.

- The mobile food vendor shall not stop the food vehicle or vending cart in a curb space or other public place for any longer than necessary to vend to waiting customers.
- This type of Street Use permit is valid for one calendar year.

See CAM 2509 (*coming soon*), Mobile-Food Vending, for additional information.

5. **First Amendment Vending.** A nonprofit organization may vend merchandise in which the organization's political, religious, sociological, or ideological message is inextricably intertwined. The vending may be from a specific site designated by SDOT, the Parks Department, or Seattle Center. For more information regarding the requirements for applying for this type of permit, see [Director's Rule 94-2](#).

### Contact Information

For more information about vending in the right-of-way please contact:

Street Use Division  
Annual Permits  
(206) 684-5267  
[AnnualPermits@Seattle.gov](mailto:AnnualPermits@Seattle.gov)

Seattle Municipal Tower, 23rd Floor  
700 5th Avenue  
P.O. Box 34996  
Seattle, Washington 98124-4996



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## Maegan Bosak

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**From:** Sara Peterson [sara@cityofsitka.com]  
**Sent:** Wednesday, April 03, 2013 8:09 AM  
**To:** Wells Williams (wells@cityofsitka.com); maegan@cityofsitka.com  
**Subject:** FW: Updates on the Request for a Permit for Sales on Sitka Public Property  
**Attachments:** Food Trailer.xls; Hot dogs Electric Bike.xls

fyi

*Sara*

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**From:** John Welsh [mailto:welshmx@yahoo.com]  
**Sent:** Wednesday, April 03, 2013 7:57 AM  
**To:** [assembly@cityofsitka.com](mailto:assembly@cityofsitka.com)  
**Subject:** Updates on the Request for a Permit for Sales on Sitka Public Property

Dear Assemblypersons,

I'm grateful to the Police and Fire Commission and to the Planning Commission for forwarding their positive recommendations for my pedicab based food service to the Assembly.

A couple of points came up during the Planning Commission's debate. By then, the time had passed for me to comment. The first point was that a \$400.00 annual fee should be charged for the permit, in fairness to vendors who rent a space near Centennial Hall, or elsewhere, for \$400.00 a year. The second point was the suggestion that the permit be limited to one year, with annual re-approval required.

I've attached two spreadsheets that help explain why a \$400.00 annual fee is prohibitive. Optimistically assuming 100 days of operation, given our weather, and given the cost of equipment and supplies, the profit possible is that of a part-time, seasonal, micro-business. A hefty fee upfront is a block-buster.

The spreadsheets also show why a permit should be for three years. The equipment costs alone can be justified only across several years. Nobody in their right mind would try to amortize the investment in one year, with the possibility of political winds or other variables causing a permit revocation at the end of one year. In addition, the city is burdened by annual approval. For re-approval to follow due process, the permit holder is put in limbo for many months, and both the city employees and commissioners are tasked.

I suggest that permit/rent costs be lowered for everyone. This addresses the issue of fairness to vendors who rent a site. It also stimulates business. I'm sure that others find the \$400.00 annual permit a stumbling

block. Why not encourage more micro businesses and stimulate sales tax? In the "hot dog" spreadsheet, you can see that a seasonal business would generate \$626.00 in sales tax. The micro business which does not quite break even in the first year is saddled with over a thousand dollars in tax and fees. Why not help the micro-business to increase its potential to generate sales tax? Lowering the bar for businesses that rent sites from the city would have the same effect. The fees currently in place may be stifling sales tax production. \$100.00 per year is recommended, paid before operations each year.

For re-authorization of permits, I suggest that this occur at the end of three years, and be automatic with the payment of fees unless triggered by formal complaints to the police validated by the courts. Those complaints would be considered during the renewal process and mitigation by the operator would also be considered. The city already has enforcement and legal processes in existence. I also suggest that the renewal process be streamlined drastically. We are entering the fourth month of the original authorization process. This was justified, as the ideas are new. Months of uncertainty should not be part of the permit renewal process. If no formal complaints to the police have been made and substantiated in court during the three year period, the renewal should be as easy as renewing the registration of a vehicle. Otherwise, the permit holder is being punished by defending the permit, when no violations have occurred. Would you like to have to defend your driver's license periodically, when no violations had taken place? Through the courts, the city could suspend a permit for violations.

I appreciate the opportunity to present these factors in advance of an Assembly Meeting, as it often is difficult to address all the factors of a proposal during a dynamic public discussion.

By approving my permit and adjusting the statutes accordingly, the city is making a forward-looking decision for the benefit of entrepreneurialism in Sitka. The Wall Street Journal's economists say, "Need a Job, Make One!" This is the future. Your approval is good for the economy, good for people who otherwise must wait for non-existent jobs, and reflects a shift of attitude toward continual adaptation. Your vote to allow sales on city property opens a positive venue for economic growth and revenue generation through sales tax.

I ask that the planners include a copy of this email in their packet for for the upcoming Assembly meeting, and I think the commission already has proposed that this matter be included in the agenda.

Sincerely  
John and Maria Welsh  
747-3533



- mobile and manufactured home park permitted on or after August 1, 2010.
- C. The following structures shall not be allowed in Sitka on or after August 1, 2010:
1. Any mobile home manufactured before June 15, 1976, and not located in Sitka prior to August 1, 2010; and
  2. Any structure similar to a mobile home that is not a HUD-compliant structure, and not located in Sitka prior to August 1, 2010.
- (Ord. 10-10 § 4 (part), 2010.)

### Chapter 6.16

#### SALES ON PUBLIC PROPERTY

##### Sections:

- 6.16.010 Sales—Permit, fees and regulations.**
- 6.16.020 Determination of time and place of sale of raw fish for purposes of this code.**
- 6.16.030 Sale of raw fish at the city and borough-owned hoist.**

##### **6.16.010 Sales—Permit, fees and regulations.**

Except as allowed in this section, outdoor sales of goods or articles, including solicitation for certain services or activities, are prohibited outdoors on public property in the CBD district, public use zone and public boat harbors. This prohibition includes, but is not limited to, sales on public sidewalks, parking lots and streets, except as allowed below:

- A. The following sales will be allowed in areas designated on an annual permit issued by the municipality for a fee of ten dollars:
1. Incidental sales by juveniles of Alaskan items made by the juveniles, or natural items collected by the juveniles, to tourists in the Crescent Harbor area,
  2. Traditional sales of Alaskan items by Alaska Natives,
  3. Sales of personally made arts and crafts items by senior citizens for charitable purposes,
  4. a. Sales of items by juveniles, the proceeds from which will primarily bene-

fit a recognized charitable organization dedicated to providing programs for youth,

- b. Sales will be limited to unique items that are not available commercially,
  - c. Such permits shall be limited to no more than three groups at any one given time;
- B. Retail sales of seafood to the ultimate consumer by the actual fisherman from their vessels in the assigned stalls;
- C. By prior arrangement with the administrator, sales may be authorized for special events such as the Salmon Derby, the Fourth of July and Alaska Day;
- D. Solicitation by musicians shall be allowed in areas designated on a musician permit issued by the municipality for an annual fee of ten dollars, under the following conditions:
1. Musician may perform and will be issued a musician permit during hours designated by the harbormaster, and
  2. No electrical amplification of any instrument will be allowed;
- E. On-site supervision by an adult is required for all juveniles under the age of ten who participate in permitted sales and other activities allowed under this section. The permit may be revoked for misconduct;
- F. Failure to follow the rules of this chapter may result in the loss of a permit.
- (Ord. 06-12 § 4(A), 2006; Ord. 95-1299 § 4, 1995; Ord. 93-1134 § 4, 1993; Ord. 92-1056 § 4 (part), 1992.)



**6.16.020 Determination of time and place of sale of raw fish for purposes of this code.**

For purposes of this code, the time and place of a sale of raw fish is when and where the fish ticket for that fish is signed. (Ord. 04-33 § 4, 2004.)

**6.16.030 Sale of raw fish at the city and borough-owned hoist.**

Notwithstanding any other provision of this chapter, raw fish may be sold within two hundred feet of the city and borough-owned hoist if the raw fish has been or is being offloaded with the use of the hoist. (Ord. 04-48 § 4(A), 2004.)

**Chapter 6.19**

**REGULATION OF COMMERCIAL OPERATORS SELLING ORGANIZED EXCURSIONS OR RENTING EQUIPMENT FOR ORGANIZED EXCURSIONS**

**Sections:**

**6.19.010 Introduction.**

**6.19.020 Definitions.**

**6.19.030 Permit required for commercial operations involving organized excursions when such operations occur in certain areas.**

**6.19.040 Regulation of visitor-related activities on public property located at tendering facilities and adjoining parking lots.**

**6.19.050 Penalties.**

**6.19.060 Commercial handbill, leaflet and advertisement sign permit.**

**6.19.010 Introduction.**

Crescent Harbor is owned by the state of Alaska and the city and borough of Sitka and operated by the city and borough of Sitka. The city and borough of Sitka owns property near Crescent Harbor including the tendering facilities, Harrigan Centennial Building, the dock and shelter, and the adjoining parking lots. The city and borough of Sitka also owns the dock known as the O'Connell Bridge Tendering Facility. In adopting this chapter, the city and borough of Sitka is exercising its proprietary interests as

an owner and operator on all city and borough-owned property, including future tendering facilities, as well as its police powers in the interest of public safety and order. Nothing in this chapter, however, limits the city and borough of Sitka's ability to further exercise its proprietary powers as it deems necessary to protect its interests or those of the public. (Ord. 03-1720 § 4 (part), 2003.)

**6.19.020 Definitions.**

The following words and phrases, when used in this chapter, have the following meanings:

- A. "Commercial operations involving organized excursions" means any business, commercial entity, or for-profit enterprise offering: tours on foot; tours or trips by a wheeled vehicle, vessel, aircraft, or watercraft propelled by animal power, human power, engines, motors, or other motive power; any trip or tour involving the taking of one or more passengers for hire for the purpose of sightseeing, fishing, hunting, visits to natural and cultural displays; any other tour as may be offered by a business operating within the city and borough of Sitka, Alaska; or the rental or sale of any equipment to be used in any trip or tour described in this sentence, whether or not that trip is guided. Methods of transportation used in commercial operations involving organized excursions include but are not limited to: buses, aircraft, vans, pedicabs, bicycles, carriages, kayaks, boats, or walking tours. The rules of conduct and the permit requirements set out in this chapter apply to taxicabs that conduct tours.
- B. "The city and borough" means the city and borough of Sitka, Alaska.  
(Ord. 06-12 § 4(B) (part), 2006; Ord. 03-1720 § 4 (part), 2003.)

**6.19.030 Permit required for commercial operations involving organized excursions when such operations occur in certain areas.**

- A. General. No person shall sell, offer to sell, solicit to sell, or take orders to sell commercial operations involving organized excursions on tendering facilities or adjoining parking lots owned or operated by the city and borough



## REGULATION OF COMMERCIAL OPERATORS SELLING ORGANIZED EXCURSIONS

except as authorized by a valid permit obtained from the city and borough pursuant to this chapter. A permit issued pursuant to this chapter shall be called a "commercial operations permit."

- B. Terms. An annual commercial operations permit shall be valid for the period from May 1st of each calendar year through April 30th of the following calendar year, unless sooner revoked or terminated. A commercial operations permit, or any rights or privileges thereunder, may not be assigned or transferred. Acceptance of a permit by the permittee shall constitute an agreement and acknowledgment by such permittee that the permittee has no property right in the permit. Acceptance of a permit by the permittee shall constitute an agreement and acknowledgment by such permittee that the permittee shall indemnify and hold the city and borough of Sitka, its elected and appointed officers, its employees, and its agents harmless from and against any and all loss, damage or expense for any injury to or death of any person or persons, or for damage to property, resulting from or arising out of any act or omission of such permittee, or any of the permittees' employees, agents, representatives, customers, or contractors. The city and borough of Sitka, its elected and appointed officers, its employees, and its agents make no representations concerning and assume no responsibility for or regarding any goods sold or activities by any permittee, or any of permittee's employees, agents, representatives, contractors, or customers.
- C. Limitations.
1. Permittees may conduct business year-round including days on which special events may be scheduled.
  2. Any signs used by permittees in an area regulated by this chapter must be in compliance with the law. All signs, vessels and vehicles must be portable or mobile and must be removed from any area for which the city and borough is responsible at the end of the business day.
  3. Freestanding signs will be limited to one per permittee at each location, and shall not be more than three feet wide and four feet from the ground, and shall only be posted in the "designated area."
4. Space is available on a first come, first serve basis.
- D. Fees. Each applicant for a permit issued under this chapter shall pay a nonrefundable application fee of four hundred dollars each year. In addition to the annual application fee of four hundred dollars, each applicant shall pay a ten dollar inspection fee each year for each motorized vehicle or motorized vessel used in a commercial operation involving organized excursions. Any person or company that has not obtained a required permit shall pay the four hundred dollar permit fee and any applicable inspection fee, in addition to any penalties assessed under Section 6.19.050.
- E. Application. A person or company seeking a permit shall file a written application on a form provided by the city and borough and pay an initial application fee of four hundred dollars. The application shall contain the following information:
1. Name, address, and telephone number of the applicant and all principals;
  2. Name of operations manager, emergency contact phone, and local home address;
  3. The experience of the applicant in the transportation of passengers;
  4. A list of vehicles and/or vessels or watercraft with current state of Alaska registration numbers, to be operated or controlled by the applicant and the location of the proposed depots and terminals, if any;
  5. The color scheme or insignia to be used to designate the vehicle or vehicles of the applicant, and license number and length of vehicle(s). Each vehicle must meet state vehicle safety codes, and each vessel or watercraft must meet U.S. Coast Guard safety codes. The state of Alaska registration sticker must be displayed in a conspicuous place according to law, or the vessel must have proper U.S. Coast Guard documentation. Each aircraft must be FAA certified;
  6. A statement that the applicant has not been convicted of any felony or the following

## REGULATION OF COMMERCIAL OPERATORS SELLING ORGANIZED EXCURSIONS

misdeemeanor offenses within the preceding five years:

- a. Prostitution or the promotion of prostitution;
  - b. Sale, transportation, possession, or use of any controlled substance as defined in Sections 11.71.140 through 11.71.190 of the Alaska Statutes;
  - c. Any offense which includes as an element the use or threat of force upon a person;
  - d. Burglary, theft, fraud, or embezzlement;
  - e. Any sexual offenses;
7. Type of tour, trip, or excursion to be sold; and
  8. An acknowledgment by the applicant that applicant agrees to be bound by all of the terms, conditions and provisions set forth in this chapter, and such additional terms and conditions as may be set forth in the permit application process or by the city and borough staff.

### F. Insurance.

1. General Liability Insurance. Subject to the special provision for commercial operators offering walking tours exclusively set out in the last sentence of this subsection, each permittee shall at all times during the period of operations maintain a current commercial general liability insurance policy in the



amount of not less than one million dollars combined single limit, which policy shall name the city and borough of Sitka, its officers, its employees, and its agents as additional insured. The policy shall not contain any self-insured retention, and shall include a provision requiring written notification to be given to the city and borough of Sitka by the insurance company not less than thirty days before the policy is canceled, modified, or terminated for any reason. Permittees shall submit a copy of the policy, or, at the option of the city and borough of Sitka prior to beginning any setting up of operations, or operations under the permit. Commercial operators who offer walking tours exclusively shall be required to maintain a current commercial general liability insurance policy in the amount of not less than one hundred thousand dollars combined single limit.

2. **Motor Vehicle Liability Insurance.** Subject to the special provision for commercial operators offering walking tours exclusively set out in the last sentence of this subsection, no permit shall be issued or continued in effect unless there is in full force and effect a motor vehicle liability insurance policy issued by an insurance company authorized to do business in the state of Alaska. The limits of coverage provided shall be not less than one million dollars for each occurrence (combined single limit for bodily injury and property damage). The policy shall contain a provision for notification to the city and borough of Sitka of cancellation thirty days prior to such cancellation. No motor vehicle liability insurance shall be required under this permit if the commercial operator does not transport customers or clients in a vehicle, vessel, or watercraft.
3. **Boat Operators Watercraft Liability.** No permit shall be issued or continued in effect for any permittee who uses any vessel or watercraft in conducting a trip or tour unless there is in full force and effect a watercraft liability insurance policy issued by an insurance company authorized to do

business in the state of Alaska. The limits of coverage provided shall be not less than one million dollars for each occurrence (combined single limit for bodily injury and property damage). Watercraft liability insurance is required for boating activities covered under permits issued pursuant to this chapter when such activities occur on waters within the city and borough. Depending on the sizes, ownership and use of the vessel or watercraft, such coverage may be provided either by a protection and indemnity (P&I) liability policy or by a comprehensive general liability policy. The determination of which policy is applicable depends on the size, ownership, and use of the watercraft. If a watercraft or vessel under twenty-six feet long is covered under a general liability policy, the insurance certificate must include a statement that "watercraft liability is included" or similar documentation. The policy shall contain a provision for notification to the city and borough of Sitka of cancellation thirty days prior to such cancellation.

4. **Aircraft Liability.** No permit shall be issued or continued in effect for any permittee who uses any aircraft in conducting a trip or tour unless there is in full force and effect an aircraft liability insurance policy issued by an insurance company authorized to do business in the state of Alaska. The limits of coverage provided shall be not less than one million dollars for each occurrence (combined single limit for bodily injury and property damage). Aircraft liability insurance is required for flying activities covered under permits issued pursuant to this chapter when such activities occur on waters within the city and borough. Depending on the sizes, ownership and use of the aircraft, such coverage may be provided either by a protection and indemnity (P&I) liability policy or by a comprehensive general liability policy. The determination of which policy is applicable depends on the size, ownership, and use of the aircraft. The policy shall contain a provision for notification



to the city and borough of Sitka of cancellation thirty days prior to such cancellation.

- G. Issuance of Permit. After review of the application by the police chief or his/her written designee, the harbor master, and the Harrigan Centennial Hall manager, the police department shall grant the application upon finding that the applicant for the permit is fit, willing, and able to comply with the law. The permit shall state the name and address of the applicant, the date of issuance, the class of motor vehicle to be operated, the number of vehicles, vessels, or watercraft authorized under the permit, the color scheme or insignia to be used, and such additional terms, conditions, provisions and limitations as the general health, welfare, morality and safety. No permit shall be considered to have been issued until it has been signed by the police chief or his/her written designee. In making the above-mentioned findings of public convenience and necessity, the city and borough shall take into consideration the character, experience, and responsibility of the applicant, and the public health, safety and welfare. In order to add additional vehicle(s) or motorized watercraft(s) to the original application, the permit holder must submit proof of insurance for the additional vehicle(s) or watercraft(s), show that each vehicle meets state motor vehicle codes or each watercraft satisfactorily meets U.S. Coast Guard approval, and pay ten dollars per additional vehicle or watercraft, to the city and borough of Sitka. A decision to deny an application for a permit may be appealed by the applicant to the city and borough administrator no later than seven days after such denial is delivered to the applicant. A letter sent to the applicant's address shall constitute delivery. An appeal from the decision of the city and borough administrator may be taken to the superior court for the state of Alaska no later than thirty days after the administrator sends notice of such denial to the applicant. No refunds will be issued for vehicles or watercrafts that do not operate for the full year.
- H. Terms of Renewal. Each permit issued under this chapter shall expire on the last day of April next following its issuance. Permits once issued and approved prior to start up of operations may be renewed and reissued by the city and borough of Sitka upon application to the city and borough of Sitka. All fees must be paid at time of permit issuance. Permits will not be renewed unless the finance department certifies that all sales taxes have been paid, and the police department certifies that all motorized vehicles, motorized vessels, or aircraft listed on the permit have passed required inspections. Any operator whose permit has been revoked during the course of the year may not be granted a permit renewal.
- I. Fraud. Misrepresentation or false advertising will not be tolerated. Any person issued a permit under this section who commits any act of fraud, cheating or misrepresentation, whether through the permittee or through an employee, agent, or representative thereof, while performing an activity provided for or authorized in the permit, directly or indirectly, or who shall barter, sell, or peddle any goods, upon public property other than those specified and authorized in their permit, can face revocation as provided in subsection J of this section.
- J. Revocation. The city and borough administrator or his/her written designee may at any time revoke a permit issued under this chapter for noncompliance with any term, condition, or provision of the permit, or violation of any provision of this section or other applicable local, state, or federal law, ordinance or regulation. The city and borough administrator or his/her written designee may also revoke such a permit upon a determination that the operation of the permittee is causing a hazard, or a disruption of pedestrian, vehicular, or watercraft traffic, or that the area affected by the permit is required for another public purpose, or for other reasons. The permittee shall be given written notice of the proposed revocation of the permit. If so requested by such permittee, not later than five days after the date of the written notice of proposed revocation, the permittee may appeal the decision of the administrator or written designee to a hearing officer selected by the administrator. Appeal from a hearing officer's decision may be made no later than thirty days after such decision to the superior court for the state of Alaska sitting in Sitka. Justifications for revocation can include but are not limited to: verified



complaints from customers in which services were verbally or otherwise contracted for, but not received from the permit holder or the permit holder's company; physical touching, grabbing, yelling, or shouting to a degree that would constitute disorderly conduct under AS 11.61.110, in an attempt to convince potential customers to purchase a tour or service; defamatory interference with competing commercial operators, Harrigan Centennial Hall staff or harbor department staff; failure to comply with reasonable directions of Harrigan Centennial Hall manager, harbormaster, or a police officer; conviction of any offense listed in subsection (E)(6) of this section.

(Ord. 06-12 § 4(B) (part), 2006; Ord. 03-1720 § 4 (part), 2003.)

**6.19.040 Regulation of visitor-related activities on public property located at tendering facilities and adjoining parking lots.**

A. Responsibility. The following municipal officials shall be responsible for enforcing existing regulations and setting limits and rules as necessary in the affected area. The Harrigan Centennial Hall manager will have authority over the Crescent Harbor parking lot and the Centennial Hall parking lot. The harbormaster will have authority over the Crescent Harbor dock, the lightering dock and ramps, the O'Connell Bridge Lightering dock and ramps, and other harbor parking lots. The police department shall handle violations of a criminal nature. The city and borough attorney shall receive referrals regarding any matters requiring civil action, including permit revocations.

B. The Tendering Facilities, Ramps, and Covered Shelter.

1. No person(s) selling organized excursions, tours, trips, or services; distributing handbills; or otherwise contacting visitors arriving from ships will be allowed within the designated security zone.
2. The city and borough shall designate locations for activities. Any such activities within the areas regulated by this chapter must occur within those locations.

3. In order to reduce congestion in the areas regulated by this chapter, the number of buses and vans at any given time will be limited. Buses servicing presold tours, trips and/or services shall be staged in designated areas established by the Harrigan Centennial Hall manager or the harbormaster. Drivers for each bus or van shall be present at all times.

4. When the Harrigan Centennial Hall manager or the harbormaster has determined that demand is heavy, each commercial operations permittee offering independent tours shall have no more than one vehicle and/or carriage for independent tours in any parking lot regulated under this chapter at the same time, unless space for more than that one vehicle is available. When such space is available, additional parking shall be done on a first-come, first-served basis. A driver for each vehicle used for an independent tour shall be present at all times. As vehicles leave the area, the permittee whose vehicle leaves may replace it. Extra parking will be established when space is available.

(Ord. 06-12 § 4(B) (part), 2006; Ord. 03-1720 § 4 (part), 2003.)

**6.19.050 Penalties.**

A. Conducting commercial operations involving organized excursions in violation of a permit is punishable by a one-hundred-dollar fine for a first offense and a fine of up to two hundred fifty dollars for a second or subsequent offense. Such fines are separate from any revocation imposed pursuant to Section 6.19.030(J).

B. Conducting commercial operations involving organized excursions or without a permit is punishable by a fine of one hundred dollars for a first offense. Conducting commercial operations involving organized excursions without a permit is punishable by a fine of fine of two hundred fifty dollars for a second or subsequent offense, which shall also bring the loss of the privilege of receiving such a permit for two calendar years.

(Ord. 03-1720 § 4 (part), 2003.)



**Chapter 14.16**  
**REGULATION OF OBSTRUCTION**  
**OF SIDEWALKS**

**Sections:**

**14.16.010 Obstructions prohibited.**

**14.16.010 Obstructions prohibited.**

- A. Notwithstanding any other provision of law, between eight a.m. and six p.m. from May 1st through September 30th of each year it shall be unlawful for any person to cause or allow the placement, maintenance, or existence of any fixture or object outside of a building in the eight-foot space starting at the curb and going away from the street on:
  - 1. Lincoln Street between Baranof Street and Harbor Way;
  - 2. Harbor Way between Lincoln Street and Harbor Drive;
  - 3. Harbor Drive between Harbor Way and Lincoln Street;
  - 4. Lake Street between Lincoln Street and Oja Way;
  - 5. Katlian Avenue between Lincoln Street and the right-of-way that separates Lots 4 and 6 of Block 1 of United States Survey 2542; or
  - 6. Cathedral Way between Seward Street and Lincoln Street.
- B. Violation of this section is an infraction punishable by a fine of two hundred fifty dollars for each day the obstruction exists. In addition to the penalty described in the previous sentence, the city and borough is also authorized to seek an injunction against a violator who has been cited more than twice for a violation of this section.
- C. It is a defense to prosecution under this section that the fixture or object placed or maintained is or consists of:
  - 1. A transit facility, traffic control device, sign, street light, public trash receptacle, fire hydrant, bicycle rack, or other structure or object lawfully placed on a sidewalk by or on behalf of the state or the city and borough; and benches as approved by the municipal administrator;
  - 2. A sign or display while in use as part of a lawfully conducted demonstration or rally; provided, that the object does not obstruct pedestrian traffic; and further provided, that it is used and displayed only during the period of time that the demonstration or rally is attended and ongoing and the attendees remove the sign or display at the conclusion of the demonstration or rally;
  - 3. An item placed as part of a lawful street closure or street fair;
  - 4. A sidewalk construction permit issued under applicable law;
  - 5. Poles, distribution boxes, and related structures of utilities;
  - 6. Postal deposit and delivery boxes;
  - 7. A building encroachment or other permanent obstruction that existed prior to the effective date of the ordinance codified in this section; or
  - 8. More than seven feet off the ground.

(Ord. 04-07 § 2, 2004.)



**CITY AND BOROUGH OF SITKA  
Planning Commission  
Minutes of Meeting  
March 5, 2013**

**Present:** Jeremy Twaddle (Chair), Darrell Windsor (Member), Cheryl Westover (Member), Chris Spivey (Member), Wells Williams (Planning Director), Melissa Henshaw (Planner I)

**Members of the Public:** John Welsh, Marie Welsh, Garry White, Maegan Bosak, Shannon Haugland (Sitka Daily Sentinel)

Chair Twaddle called the meeting to order at 7:00 p.m.

**Consideration of the Minutes from the February 19, 2013 meeting:**

**MOTION: M/S WINDSOR/WESTOVER** moved to approve the meeting minutes for February 19, 2013

**ACTION:** Motion **PASSED unanimously** on a voice vote.

**The evening business:**

**FOOD SALES BY PEDICAB  
JOHN WELSH**

*Public hearing and consideration for a permit for food sales by pedicab on City of Sitka streets and property by John Welsh.*

Planning Director Williams reviewed this request and correspondence from Mr. Welsh. Code section 14.16 regulation of obstruction of sidewalk applies to this case. Williams asked commission to invite Welsh up to review his request and then go over zoning code issues which may or may not apply.

**APPLICANT:** John Welsh came forward to share his business plan. He is wanting to sell food (hot dogs and more) from his personal bike. His goal is to travel throughout town selling food. All food will be cooked in the commissary or other legal rented kitchen. Personal bicycle will have a sink and wastewater tank, modular design. Welsh will most likely refrain from sidewalks but will use parking spaces for extended selling periods. The question is whether sales can be done on city property. Wells shared code provisions 14.16 footnote 8, covering kiosks, says that if it is an outdoor restaurant then it applies to the CBD. On private property, if kiosk is removed at night, it is permitted in CBD. Code would need to be changed to allow sales on public property. Many different zones in downtown area. Welsh feels that he already has the right to bike it is just the idea of selling from it. Bicycle will have a canopy to cover from rain. Commission concerned with slowing down town traffic during busy season, specifically on Lincoln Street, as well as the general business process.

**PUBLIC COMMENT:** Call to Planner Henshaw from Greg Johnstone at DEC regarding bathroom locations.

Commission deliberated with an ongoing discussion, including points concerning public property, food sales and pedestrian safety. Planning Director Williams stated that the Planning Committee will make a recommendation to the Assembly.

No motion was made. This request will need to go before the Police and Fire Commission. It will come back before the Board April 2<sup>nd</sup>.

## **SAWMILL COVE INDUSTRIAL PARK SITKA ECONOMIC DEVELOPMENT ASSOCIATION**

*Public hearing and consideration of a zoning text amendment to Table 22.16.015-6 to change "Eating and drinking places" from a conditional use to a permitted use in the Sawmill Cove special zone. The request is filed by Sitka Economic Development Association. The property is owned by the City and Borough of Sitka."*

Planning Director Williams reviewed this request by going over the history of the Sawmill Cove Special zone. There was a lengthy process about 5 years ago. It was restrictive with the retail/business uses.

**APPLICANT:** Garry White, SCIP Director came forward. With all the workers out at the Blue Lake Dam project, there is a need for food vendors in the area. He would like to see the conditional code changed so SCIP would have the option to sublease to coffee shops, sandwich carts, etc. All vendors would have to be approved by SCIP Board prior after going through the public process. Commission feels that this topic should go to the Assembly. SCIP would need a conditional use permit.

**PUBLIC COMMENT:** No public comment.

**No motion was made. The applicant withdrew his request.**

**PLANNING DIRECTOR'S REPORT:** No meeting March 19th. Next meeting April 2nd.

Commissioner Spivey excused himself from the next item as he is the representative for it.

**PUBLIC BUSINESS FROM THE FLOOR:** It was brought to the Boards attention by a concerned citizen that the Bickar property at the corner of Price Street and Burkhart Street is a dangerous property. This citizen is concerned for the safety and well being of the families around the area. Hazardous materials could be leaking into the soil. Materials are outside of easement. Staff recommended the following motion.

**MOTION: M/S WESTOVER/WINDSOR moved to recommend the Assembly direct new City Attorney/Administrator to take stance on enforcement.**

**ACTION:** Motion **PASSED unanimously** on a voice vote.

Mr. Spivey joined the Commission.

## **ADJOURNMENT**

**MOTION: M/S WESTOVER/WINDSOR moved to adjourn at 8:50 pm.**



**ACTION:** Motion **PASSED unanimously** on a voice vote.

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**Jeremy Twaddle, Chair**

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**Maegan Bosak, Secretary**