

If this item should be pulled from the consent agenda the following motion would be in order.

POSSIBLE MOTION

I MOVE TO approve Ordinance 2015-20 on first reading.



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

Colleen Ingman

From: sheldons@sitkapd.com
Sent: Wednesday, March 18, 2015 11:52 AM
To: Colleen Ingman
Subject: Re: FW: Clarifying Ordinances

The ordinances look fine.

Chief Sheldon Schmitt
304 Lake St, Sitka AK 99835
(907) 747-3349 or 747-3245

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2015-20

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA, ALASKA PROPOSING TO CLARIFY THE SITKA GENERAL CODE BY AMENDING SECTIONS 11.17.25.010 PROHIBITED VEHICLES AND LOADS AND 11.17.25.020 WIDTH OF VEHICLES, SECTION 11.28.010 TRAFFIC CODE—ADOPTION OF STATE TRAFFIC LAWS, AND SECTIONS 15.05.590 AND 15.05.600 FIRE PROTECTION SERVICES AND SYSTEMS

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 are derived from that review and further analysis.

Sections 11.17.25.010 and 11.17.25.020 refer to Alaska Statutes for oversize vehicle permits that are now covered under Alaska Administrative Code. Inserting the words “state traffic” in Section 11.28.010 clarifies that the city and borough did not intend to adopt all statutes and regulations of the state of Alaska. The changes to Sections 15.05.590 and 15.05.600 correct the referenced title number.

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

Title 11
VEHICLES AND TRAFFIC

11.17 Vehicle Weight and Load Limitations

Section

11.17.25.010 Prohibited vehicles and loads.

B. The provisions of this chapter governing size, weight, and load do not apply to a vehicle or vehicles with a load operated under the terms of a permit issued, under

17 AAC 25.011. AS ~~44.33.020(25)~~.

11.17.25.020 Width of vehicles.

A. The total outside width of any vehicle or load on a vehicle may not exceed ninety-six inches, except by permit as provided in 17 AAC 25.011 AS ~~28.05.011(8)~~.

52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99

* * *

11.28 State Traffic Laws Adopted

Section

11.28.010 Traffic Code—Adoption of state traffic laws.

City and borough of Sitka adopts all state traffic statutes and regulations of the state of Alaska, as they presently exist and as they may be revised in the future as the traffic code for the city and borough of Sitka.

* * *

**Title 15
PUBLIC UTILITIES**

* * *

**Chapter 15.05
Water System**

Section

15.05.590 Fire protection services.

D. Violations of Regulations. ... Every person convicted of a violation of this chapter shall be guilty of a misdemeanor, and penalties assessed as prescribed in Title 1 40 of the Sitka General Code.

15.05.600 Fire protection systems.

B. An unmetered fire protection service Every person convicted of a violation of this chapter shall be guilty of a misdemeanor, and penalties assessed as prescribed in Title 1 40 of the Sitka General Code.

* * *

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 14th day of April, 2015.

Matthew Hunter, Deputy Mayor

ATTEST:

Colleen Ingman, MMC
Municipal Clerk

52.	<p>11.17.25.010 Prohibited vehicles and loads. Subsection (B) refers to AS 44.33.020(25) regarding motor vehicle load permits. AS 44.33.020 no longer governs those permits. 17 AAC 25.011 appears to cover the same subject matter, but it might not be what the City and Borough wishes to adopt.</p> <p>Recommendation: Any action taken to address this section requires an ordinance.</p>	0
53.	<p>11.17.25.020 Width of vehicles. This section refers to AS 28.05.011(8). That section does not exist. It appears width of vehicles is covered primarily by 17 AAC 25.012, but it might not be what the City and Borough wishes to adopt.</p> <p>Recommendation: Any action taken to address this section requires an ordinance.</p>	0
54.	<p>11.28.010 Traffic code – Adoption of state traffic laws. This law intends to adopt various sections of Alaska law that might affect traffic laws. However, because section headings are not part of the law (SGC 1.01.060), this section adopts the entire Alaska Statutes and Administrative Code.</p> <p>Additionally, this type of adoption should not be undertaken without checking whether older laws in the SGC state different things than the AS or AAC. For example, if an SGC ordinance specifies that cars must be parked no more than 12 inches from a curb and the AAC specifies 16 inches, it is unclear whether parking 13 to 16 inches from the curb is legal.</p> <p>Recommendation: While updating this section to adopt the intended set of laws (ideally a list of AS and AAC sections), the City and Borough should look at its existing traffic laws in Title 11 to compare them to the AS and AAC and decide what to do with them.</p>	0 Legal

71.	<p>15.05.590 Fire protection services. See comment for 15.04.260. Additionally, this section refers to Title 10 when it appears to mean Title 1.</p> <p>Recommendation: We can correct this error, but the City and Borough might wish to take action on this section and 15.04.260 before such correction.</p>	0
72.	<p>15.05.600 Fire protection systems. See comment for 15.04.260. Additionally, this section refers to Title 10 when it appears to mean Title 1.</p> <p>Recommendation: We can correct this error, but the City and Borough might wish to take action on this section and 15.04.260 before such correction.</p>	0