

## **POSSIBLE MOTION**

**I MOVE TO** approve Ordinance 2017-28 on  
second and final reading.

Note: At the Assembly meeting of July 25<sup>th</sup>, Assembly member Guevin gave notice of reconsideration for Ordinance 2017-28. Mr. Guevin later removed the notice realizing Ordinance 2017-28 required four votes to fail on first reading\* and that the Ordinance would move forward to second reading without a motion to reconsider. The vote on first reading was 2-3 with Swanson, Guevin and Bean opposed.

\*Section 3.02 of the Home Rule Charter of the City and Borough of Sitka, indicates an ordinance on first reading, automatically moves forward to second reading, unless there are 4 votes to fail it on first reading.

CITY AND BOROUGH OF SITKA  
ORDINANCE NO. 2017-28

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA AMENDING SITKA GENERAL  
CODE CHAPTER 10.24 ENTITLED "FIREWORKS" BY ADDING A NEW SECTION 10.24.070  
"PENALTIES"

- 1. **CLASSIFICATION.** This ordinance is of a permanent nature and is intended to be a part of the Sitka General Code of the City and Borough of Sitka, Alaska.
- 2. **SEVERABILITY.** If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and application thereof to any person and circumstances shall not be affected thereby.
- 3. **PURPOSE.** The purpose of this ordinance is to create penalties for violation.
- 4. **ENACTMENT.** NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough of Sitka that the Sitka General Code Chapter 10.24 "Fireworks" is amended to add a new section for penalties for violations, Section 10.24.070 "Penalties" (new language underlined; deleted language stricken):

**Chapter 10.24  
FIREWORKS**

Sections:

- 10.24.010 Title.
- 10.24.020 Prohibition on sale.
- 10.24.030 Prohibition on use.
- 10.24.040 Exceptions for authorized displays.
- 10.24.050 Permissible sales and uses.
- 10.24.060 Fireworks defined.
- 10.24.070 Penalties

\* \* \*

**10.24.010 Title.**  
This chapter shall be known and cited as the "fireworks control ordinance of the city and borough."

**10.24.020 Prohibition on sale.**  
It is unlawful for any person, business, corporation, association, club or organization to sell, expose for sale, or offer for sale any fireworks within the corporate limits of the city and borough.

**10.24.030 Prohibition on use.**  
It is unlawful for any person, business, corporation, association, club or organization to use or explode any fireworks, except as otherwise provided by this chapter within the municipal limits of the city and borough.

47 **10.24.040 Exceptions for authorized displays.**

48 A. Fireworks may be used for public displays by municipalities, fair associations,  
49 amusement parks and other organizations or groups of individuals, provided that:

50 1. A permit is obtained from the administrator or any employee designated by him;  
51 and

52 2. A bond is filed with the city and borough in the amount of at least five hundred  
53 dollars to ensure payment of all damages to persons or property caused by the  
54 display. The bond requirement will not be operative if the holder of the permit has in  
55 effect an insurance policy which accomplishes the same purpose as the bond.

56 B. No permit is transferable.

57 **10.24.050 Permissible sales and uses.**

58 Nothing in this chapter shall be construed to prohibit:

59 A. Any resident wholesaler, dealer, or jobber from selling at wholesale those fireworks  
60 which are not prohibited in this chapter;

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62 B. The sale of any kind of fireworks if the fireworks are to be shipped directly from the  
63 state in accordance with regulations 27 CFR Part 555 of the Bureau of Alcohol,  
64 Tobacco, Firearms and Explosives (ATF);

65  
66 C. The use of fireworks by vessels or other transportation agencies for signal purposes  
67 or illumination;

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69 D. The use of flashlight composition in normal amounts by photographers or dealers in  
70 photographic supplies;

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72 E. The sale or use of blank cartridges for a show or a theater;

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74 F. Use of fireworks for signal or ceremonial purposes in athletic events or parades;  
75 and

76  
77 G. Use by military organizations.

78 **10.24.060 Fireworks defined.**

79 "Fireworks" includes any combustible or explosive composition or any substance or  
80 combination of substances or article prepared for the purpose of producing a visible or an  
81 audible effect by combustion, explosion, deflagration or detonation, and includes blank  
82 cartridges, toy pistols, toy cannons, toy canes, or toy guns in which explosives are used,  
83 balloons which require explosive propellant, firecrackers, torpedoes, skyrockets, Roman  
84 candles, Daygo bombs, or other fireworks of like construction, which contain any  
85 explosives or flammable compound, or any tablets or other device containing any  
86 explosive substance, except that the term "fireworks" does not include sparklers, auto

87 flares, paper caps containing not in excess an average of twenty-five hundredths of a grain  
88 of explosive content per cap manufactured in accordance with the Interstate Commerce  
89 Commission regulations for packing and shipping, as provided therein, and toy pistols, toy  
90 canes, toy guns or other devices for use of such caps, the sale and use of which shall be  
91 permitted at all times (AS 18.72.100).

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93 **10.24.070 Penalties.**

94 In accordance with AS 29.25.070(a), citations for offenses in this chapter may be disposed  
95 of as provided in AS 12.25.175-.230, without a court appearance, upon payment of the fine  
96 amounts stated herein plus the state surcharge required by AS 12.55.039 and AS  
97 29.25.074. Fines must be paid to the City and Borough of Sitka. The Alaska Rules of  
98 Minor Offense Procedure in the Alaska Rules of Court apply to all offenses referenced  
99 herein. Citations charging these offenses must meet the requirements of Rule 3 of the  
100 Alaska Rules of Minor Offense Procedure. For the first offense, the fine shall be fifty  
101 dollars. For the second offense, the fine shall be one hundred dollars. For the third  
102 offense, the fine shall be two hundred dollars. For any subsequent offense after three, the  
103 defendant must appear in court to answer for the charges. For any offense after three, the  
104 fine shall exceed two hundred dollars and not exceed five hundred dollars. If a person  
105 charged with one of these offenses appears in court and is found guilty, the penalty  
106 imposed for the offense may not exceed the fine amount for that offense stated herein.  
107 These fines may not be judicially reduced. For purposes of this section, prior offenses  
108 must be within the previous five years.

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5. **EFFECTIVE DATE.** This Ordinance shall become effective the day after the date of its  
112 passage.

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**PASSED, APPROVED, AND ADOPTED** by the Assembly of the City and Borough of Sitka, Alaska  
115 this 8<sup>th</sup> day of August, 2017.

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Matthew Hunter, Mayor

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ATTEST:

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Sara Peterson, CMC  
Municipal Clerk

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1<sup>st</sup> reading 7/25/17

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2<sup>nd</sup> reading 8/8/17

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