

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2015-41

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA AMENDING SITKA GENERAL CODE CHAPTER 4.09 "SALES TAX" BY ADDING A NEW SECTION 4.09.050 "NON-PROFIT ACTIVITIES ENHANCEMENT FUND," MODIFYING SECTION 4.09.100L "EXEMPTIONS" BY CLARIFYING SALES MADE BY NONPROFIT CHARITABLE ORGANIZATIONS; AMENDING SECTION 4.09.420 "DEFINITIONS" BY MODIFYING SUBSECTION "I." TO INCLUDE OUTCRY, SILENT AUCTIONS, AND ADMISSION FEES AS SALES AND ADDING SUBSECTIONS "O" "DONATION", AND "P" "ADMISSION FEE"

FAILED ON FIRST READING AUGUST 11, 2015

1. CLASSIFICATION. This ordinance is of a permanent nature and is intended to become a part of the Sitka General Code.

2. SEVERABILITY. If any provision of this ordinance or any application to any person or circumstance is held invalid, the remainder of this ordinance and application to any person or circumstance shall not be affected.

3. PURPOSE. The purpose of this ordinance is to establish a Non-Profit Activities Enhancement Fund, modify exemption of sales made by nonprofit charitable organizations from the collection and remittance of sales tax, add terms "donation" and "admission fee" to the list of applicable definitions in Section 4.09.420 of Sitka General Code and include outcry, silent auctions, and admission fees as sales.

4. ENACTMENT, NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough of Sitka a new section 4.09.050 is created; sections 4.09.100 "L" is amended, 4.09.420 "I," is amended, and 4.09.420 "O" and "P" are added to read as follows (new language underlined; deleted language stricken):

**Chapter 4.09
Sales Tax**

Sections:

- 4.09.010 Levy of sales tax.**
- 4.09.020 Collection of tax.**
- 4.09.030 Presumption of taxability—Sales price and purchase price.**
- 4.09.040 Separate statement of tax—No advertising to absorb or refund tax.**
- 4.09.050 Non-Profit Activities Enhancement Fund**

**4.09.050
NON-PROFIT ACTIVITIES ENHANCEMENT FUND**

45 A. A new special revenue fund of the City and Borough of Sitka, entitled the Non-Profit
46 Activities Enhancement Fund, is henceforth created. The purpose of the Non-Profit Activities
47 Enhancement Fund shall be to serve as a depository for a portion of sales taxes collected and
48 remitted by non-profit entities until such funds are appropriated for non-profit enhancement
49 purposes.

50 B. On a quarterly basis, 95% of all sales taxes collected from not-for-profit entities for the
51 prior quarter which are in excess of the amount collected in Fiscal Year 2015 for the same
52 quarter, henceforth referred to as the “baseline quarters”, shall be transferred into the Non-profit
53 Activities Enhancement Fund.

54 C. The Administrator, through the preparation of the Annual Consolidated Operating Budget
55 of the Municipality, shall plan for the appropriation of funds contained in the Non-Profit
56 Activities Enhancement Fund. If appropriations are required above the amount authorized in the
57 Annual Consolidated Operating Budget of the Municipality, the Administrator shall bring forth
58 supplemental appropriation ordinances, in accordance with the Home Rule Charter of the City
59 and Borough of Sitka.

60 D. The proceeds contained in the Non-Profit Activities Enhancement Fund may be
61 appropriated by the Assembly for any purpose related to the enhancement of non-profit activities
62 in the Municipality. All such procurements shall be subject to Municipal procurement
63 regulations in accordance with Title 3 of the Sitka General Code.

64 E. If at any such time the Non-Profit Activities Enhancement Fund is dissolved, the net
65 proceeds of the Fund will revert back to the General Fund.

66 F. Any investment earnings on the unspent proceeds contained in the Non-Profit Activities
67 Enhancement Fund shall be added to the corpus of the Fund and will be available for
68 appropriation by the Assembly.

69 ***

70 **4.09.100 Exemptions**

71 L. Nonprofit Charitable Organizations. Sales made by nonprofit charitable organizations
72 which do not have paid employees or engage contractors for services basic or fundamental to the
73 service or product they offer and which do not keep normal business hours have either a physical
74 address, mailing address, or a physical presence within the City and Borough of Sitka are
75 exempt. The existence of an internet web site which advertises and promotes the activities of the
76 nonprofit organization within the City and Borough of Sitka shall be considered as maintaining a
77 physical presence within the City and Borough of Sitka for purposes of this chapter. To qualify
78 under this exemption, a nonprofit organization must meet the definition of charitable
79 organization as set forth in IRS Code 7.25.3.5, apply annually for an exemption, and include in

80 the application how the purpose of the nonprofit organization meets the definition of a charitable
81 organization as set forth in the IRS code. Any organization completely exempted from the
82 collection and remittance of sales taxes under this Section will still be required to prepare and
83 submit sales tax returns under the provisions of this Chapter reporting the total amount of sales
84 exempted from taxation.

85 ***

86 **4.09.420 Definitions**

87 I. “Sale”, “selling” or “purchasing” means the transfer of property for consideration or the
88 performance of a service for consideration. The transfer of property via an outcry or silent
89 auction shall be considered a sale for purposes of sales taxability. Admission fees shall also be
90 considered as sales for the purposes of sales taxability.

91 ***

92 O. “Donation” means the gift of money, personal property for which no return consideration is
93 received. Admission fees or ticket sales for admission to events are considered sales and not
94 donations if the admission to the event for the general public can only be gained by purchase of a
95 ticket or payment of an admission fee.

96 P. “Admission Fee” means the fee charged to the general public for admission to an event. For
97 purposes of this chapter, the definition of “Admission Fee” shall also include the terms
98 “admission ticket”, “hand stamp” and “cover charge”.

99 ***

100 5. EFFECTIVE DATE. **This ordinance shall become effective October 1, 2015.**

101 **PASSED, APPROVED, AND ADOPTED** by the Assembly of the City and Borough of
102 Sitka, Alaska this 25th day of August, 2015.

103 _____
104 Mim McConnell, Mayor

105 ATTEST:
106 _____
107 Sara Peterson, CMC
108 Municipal Clerk
109