

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2018-19

FAILED ON FIRST READING 4/24/18

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA AMENDING TITLE 4 "REVENUE AND FINANCE" OF THE SITKA GENERAL CODE BY ADDING A NEW CHAPTER 4.27 "SEVERANCE TAX"

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 add a new Chapter 4.27 "Severance tax" to the Sitka General Code Title 4, for the tax of raw materials extracted from natural resources in Sitka, including fish, timber, gravel, sand, rock, and minerals.

4. ENACTMENT. NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough of Sitka that the Sitka General Code is amended by adding a new Chapter 4.27, entitled "Severance tax", to read as follows (~~deleted language stricken~~, new language underlined):

**Title 4
REVENUE AND FINANCE**

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**Chapter 4.27
SEVERANCE TAX**

Sections:

- 4.27.010 Definitions.
- 4.27.020 Resources subject to tax.
- 4.27.030 Exemption.
- 4.27.040 Collection and administration.
- 4.27.050 Allocation.
- 4.27.060 Enforcement and penalties.
- 4.27.070 Severance tax return verification.
- 4.27.080 Confidentiality.
- 4.27.090 Liability for and collection of severance tax.
- 4.27.100 Penalties and interest.

4.27.010 Definitions.

In this chapter:

A. "The gross production value" means the value per unit at the point of severance multiplied by the number of recovered units of the natural resources sold during the calendar quarter.

B. "Severer or harvester" means a person, company, corporation or other entity engaged in the business of severing or harvesting natural resources. This includes offshore processors of fish products who process, deliver, catch, or receive fish products within the boundaries of the city and borough of Sitka.

C. "Calendar quarter" means any one of the following three-month periods beginning: July 1st to September 30th, October 1st to December 31st, January 1st to March 31st, and April 1st to June 30th.

D. "Recovered units" means all units mined, felled, extracted, or removed whether produced directly or contractually during the period of production.

E. "Point of severance" for purposes of computing the tax is defined as:

1. Prepared for transport at the mine site in the case of resources as defined in SGC 4.27.020.A;

2. The yard scale in the case of resources defined in SGC 4.27.020.B;

3. The scale at the pit or quarry in the case of resources as defined in SGC 4.27.020.C;

4. The dock in the case of resources defined in SGC 4.27.020.D.

4.27.020 Resources subject to tax

There is levied in the city and borough, on any severer or harvester of certain natural resources, an excise tax, denominated as a severance tax. The three percent multiplied by the gross production value for the calendar quarter resulting from the following activities:

A. Mining, extracting, harvesting, removing or producing for sale, profit, or commercial use, any copper, gold, silver, zinc, lead, molybdenum, or other metallic mineral product, compound, or combination of mineral products;

B. Felling, removing, or producing for sale, profit, or commercial use, timber or any product of the forest;

C. Gravel mining, quarrying, or producing for sale, profit, or commercial use, any sand, gravel, rock or coal; and

D. Harvesting of any raw finfish, shellfish, mollusks and other commercial products of the sea.

4.27.030 Exemption.

If the annual gross production value of severed or harvested natural resources within the city and borough does not equal or exceed the amount of \$5,000 annually, the severer or harvester shall be exempt from taxation under this chapter. This exemption does not apply to SGC

4.27.020.D.

4.45.040 Collection and administration.

A. Every severer or harvester of resources subject to tax, except those subject to tax under SGC 4.27.020.D, shall register with the finance director prior to beginning a severance or harvesting activity. There shall be no penalty for failure to register so long as the tax is paid as required under subsection D of this section.

B. A purchaser of resources severed or harvested under SGC 4.27.020.D shall register, collect, and transmit the tax on the severer's behalf.

1. A purchaser who timely and correctly files a properly completed tax statement along with full payment of all taxes due under this chapter shall be entitled to retain five percent of the total tax collected during the calendar quarter to defray administrative costs.

2. The purchaser shall hold the tax collected in trust for the city and borough until paid. The purchaser shall be entitled to keep any interest accruing to the tax account if the payment is timely.

3. The gross production value for the calendar quarter shall include the amount paid to any severer or harvester for taxable resources purchased but not paid for by the purchaser during any prior calendar quarter.

4. An offshore processor which processes, delivers, catches, or receives fish products within the boundaries of the city and borough is liable for and shall pay the tax. The gross production value will be based on the gross weight of the raw fish products and the current sales price for fish products of like quality and character.

C. Every severer or harvester shall submit to the finance director a severance tax return, under oath, at the time the tax is paid, containing the following information:

1. A description of the property from which the resource was severed or harvested by legal description or city and borough-assigned account number.

2. The gross amount of recovered units severed or harvested during the calendar quarter.

3. The gross sales value of all recovered units severed or harvested and sold during the calendar quarter.

D. The return or tax statement along with all taxes due the city and borough for the calendar quarter must be received by the finance director on or before the last business day of the month following the end of the calendar quarter for which the return or statement is required.

E. Those harvesters subject to tax under SGC 4.27.020.B may file an abbreviated return with the assessor at the time the tax is paid. The return will be confidential. The return shall state the

gross production value for the calendar quarter. The harvester may retain five percent of the tax paid for the calendar quarter on which the filing is made as long as:

1. All information and documentation in support of and used to determine the tax is held for three years from the date of filing and made available upon request;

2. The harvester filing the abbreviated form agrees to have an audit performed annually of the tax records to verify that the tax was calculated and paid as required by this chapter;

3. The auditor shall submit a copy of the auditor's report performed under subsection 4.27.040.E.2 to the finance director prior to the last day of September following the end of the fiscal year for which the taxes are filed; and

4. The auditor is an independent certified public accounting firm approved by the finance director and directed by the assessor prior to beginning the audit, and all fees associated with the audit are paid by the party filing the return.

F. This tax constitutes a lien chargeable against the property owned by the severer. The lien may be foreclosed by the city and borough in the same manner as any other lien against real or personal property.

4.27.050 Allocation.

Proceeds collected under this chapter shall be allocated as follows: fifty percent to general fund and fifty percent to ports and harbors enterprise fund.

4.27.060 Enforcement and penalties.

A. The superior court, upon the request of the finance director, shall issue an injunction requiring compliance with the provisions of this chapter. In the alternative, the finance director may determine the severance tax on parties who have not filed a return in an amount based on historical data and the best information available.

B. A person who fails, refuses, or neglects to file a severance tax return in compliance with this chapter shall, in addition to any other penalties provided by law, be liable for a penalty of five percent of the tax.

4.27.070 Severance tax return verification.

Except for those harvesters who have filed under and fully complied with SGC 4.27.040.E and have paid all taxes when due, the finance director, or his designee, may:

A. Require a person engaged in natural resource extraction, production, or transportation, any agent or employee of the person, or the purchaser of natural resources taxed under this chapter to furnish any additional information reasonably necessary to compute the amount of the tax or to determine if a tax is due;

B. Examine the books, records, and files of any such person;

C. Conduct hearings and compel the attendance of witnesses and the production of books, records, and papers of any person; and

D. Make an investigation or hold any inquiry reasonably necessary to a disclosure of facts as to:

1. The amount of extraction or production of a natural resource of an extractor, producer, or seller;

2. The purchaser of the natural resource; and

3. Transportation of the resource.

4.27.080 Confidentiality.

Information and materials in the possession of the city and borough which disclose the particulars of the business or affairs of the payer of taxes under this chapter will be kept confidential by the city and borough except in connection with an official investigation by the city and borough or other agency enforcing the laws of the city and borough or of the state. The city and borough may publish statistics in a manner which prevents identification of particular returns and may publish tax lists showing the names, taxes, penalties, and interest with respect to taxpayers who are delinquent to assist in the collection of taxes.

4.27.090 Liability for and collection of severance tax.

The severer or harvester or, in the case of SGC 4.27.020.D, the purchaser or processor of the resources assessed under this chapter is liable for the amount of taxes, interest and penalties due. The tax, together with penalties and interest, may be collected in a personal action brought in the name of the city and borough.

4.27.100 Penalties and interest.

All taxes due under this chapter but not timely paid as required are subject to a penalty of ten percent of the tax due. Interest shall accrue on the tax due including penalties and interest at the rate of twelve percent per year from the date such taxes are due. Partial payments shall be applied first to accrued penalties, then to interest and then to principal. A payment is timely paid when mailed to the city and borough postage prepaid bearing a postmark date no later than the due date.

5. EFFECTIVE DATE. This ordinance shall become effective July 1st of 2018.

PASSED, APPROVED, AND ADOPTED by the Assembly of the City and Borough of Sitka, Alaska, this 8th day of May, 2018.

Matthew Hunter, Mayor

ATTEST:

Sara Peterson, MMC
Municipal Clerk

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