



Parks and Recreation Committee Agenda

Thursday, September 12, 2024 6:00 PM

Harrigan Centennial Hall, 330 Harbor Drive

Members: Chair – James Poulson, Ben Hughey, Brandon Marx
Rich Krupa, Katherine Prussian, Steve Black, Candace Rutledge
Assembly Liaison: Kevin Mosher

WORK SESSION

- Concept Review on Commercial Land Use Plan and Code Changes

Chapter 14.10

COMMERCIAL RECREATIONAL USE OF MUNICIPAL LANDS AND FACILITIES

Sections:

- 14.10.010** Policy.
- 14.10.020** Lands regulated.
- 14.10.030** Permit required for commercial activities.
- 14.10.040** Commercial recreational use permit fees.
- 14.10.050** Insurance and indemnification.
- 14.10.060** Permit duration.
- 14.10.070** General operating requirements.
- 14.10.080** Enforcement and penalties.
- 14.10.090** Definitions.

14.10.010 Policy.

- A. The policy of the city and borough of Sitka concerning the commercial recreational use of municipal lands is to:
1. Maintain and improve municipal lands including parks, open spaces, recreation areas, boardwalks and trails for their primary use by the public and preserve them from activities inconsistent with that primary use;
 2. Preserve and maintain these public assets for all users; preserve the recreational experience unique to each area; consider impacts upon other users and neighboring property; and ensure public safety on municipal lands;
 3. Establish rules to minimize environmental damage and mitigate impacts from the commercial recreational use of municipal lands;
 4. Charge for commercial recreational use of municipal lands and facilities, including lands beyond the Sitka road system, at a fair rate which reflects the cost of providing any improvements, maintenance, services, and administration necessary for the use;
 5. Establish and enforce uniform rules for commercial recreational use of municipal lands and facilities. (Ord. 12-40 § 4, 2012; Ord. 06-14 § 4, 2006; Ord. 04-39 § 4, 2004; S.G.C. § 23.20.010.)

14.10.020 Lands regulated.

This title applies to all municipal lands and facilities related to commercial recreational use, including Baranof Warm Springs and other locations beyond the Sitka road system. This title also applies to all trails owned by and easements held by the city and borough of Sitka for parks and recreation purposes. This title also applies to trails for which the city and borough holds joint jurisdiction with an agency of the state of Alaska or the United States government. (Ord. 12-40 § 4, 2012; Ord. 06-14 § 4, 2006; Ord. 04-39 § 4, 2004; S.G.C. § 23.20.020.)

14.10.030 Permit required for commercial activities.

- A. No person may conduct commercial recreational activities on city and borough of Sitka lands subject to this title except as authorized by a permit issued by the administrator.
- B. The administrator may issue a permit for commercial recreational activities on city and borough lands that are recommended by the parks and recreation committee after public hearing and notice, subject to such conditions as the administrator may impose and only upon a determination that the use as proposed:
1. Will not pollute or degrade the environment, resources, facilities, or atmosphere of the area; and
 2. Will not endanger the public health, safety, and welfare; and
 3. Will not significantly interfere with the use and enjoyment of the area by other members of the public.
- C. A permit may contain conditions reasonably required for the protection and use of the area for which the permit is granted, including limitations as to time, area, equipment, user loading, traffic, parking, discharges, noise, and other factors.
- D. The administrator may deny a proposed use upon a written determination that the use, alone or in combination with other uses, would cause an unreasonable level of environmental degradation, or other disturbance to the area. In making such determination, the administrator shall consider the nature and extent of the use, the number of users, and the impacts likely to result from the use, including traffic, noise, public access, loading, the availability of parking and other factors.
- E. A permit is transferable only with the permittee's entire business interest in activities conducted under the permit and only to a person who has successfully completed the permit application process. No credit will be given for any permit payments made by the previous holder of the permit. (Ord. 06-14 § 4, 2006; Ord. 04-39 § 4, 2004; S.G.C. § 23.20.030.)

14.10.040 Commercial recreational use permit fees.

The applicant for a commercial recreational use permit shall pay a fee established by the city and borough assembly that will give the city and borough a fair and reasonable return in light of the cost of administering the

activity permitted under the permit, the impact of the proposed activity on the area, the cost of any improvements required, and the value of the benefit conferred upon the user. The fee shall be paid prior to the commencement of the permitted activity and should be based on the applicant's best estimate of the number of clients and number of days of permitted activity that he/she expects for that season. Reconciliation is done at the end of the season and can result in a credit being carried over to the following season or additional charges. The minimum fee is \$100.00, regardless of whether a commercial operator's service days add up to that amount. (Ord. 06-14 § 4, 2006; Ord. 04-39 § 4, 2004; S.G.C. § 23.20.040.)

14.10.050 Insurance and indemnification.

A. *General Liability Insurance.* Each permittee receiving a permit under SGC [14.10.030](#) shall at all times during the period of operations maintain a current commercial general liability insurance policy in the amount of not less than \$1,000,000 combined single limit, which policy shall name the city and borough and its officers and employees as additional insureds. The policy shall not contain any self-insured retention or deductible in excess of \$1,000, and shall include a provision requiring written notification to be given to the city and borough by the insurance company not less than 30 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, a certificate of the policy, to the city and borough prior to beginning any operations or setting up of operations under the permit.

B. *Vehicle Liability Insurance.* No permit issued under SGC [14.10.030](#) shall be issued or continued in effect unless there is in full force and effect a liability insurance policy for each vehicle used to transport persons or materials to, from or within the permit area. The policy shall be issued by an insurance company authorized to do business in the state of Alaska. The limits of coverage provided shall be not less than \$1,000,000 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 cancellation 30 days prior to such cancellation. (Ord. 04-39 § 4, 2004; S.G.C. § 23.20.050.)

14.10.060 Permit duration.

A. Permits may be issued for a period not to exceed one year.

B. Permits are valid only for the dates, times, activities, and areas specified.

C. Permits are not automatically renewable. Issuance of a permit shall not entitle the permit holder to any priority or preferential consideration for subsequent, new, or additional permits for the same or related uses or areas. A new application must be submitted each year for each permit.

D. The administrator may issue a temporary permit at any time, valid for not more than 30 days. The application process for a temporary permit shall be the same as for other permits. (Ord. 06-14 § 4, 2006; Ord. 04-39 § 4, 2004; S.G.C. § 23.20.060.)

14.10.070 General operating requirements.

- A. Permit holders shall have a copy of the permit immediately available for inspection at all times while engaged in activities pursuant to the permit.
- B. Permit holders shall be responsible to the city and borough for their actions and those of their agents, employees or customers while engaged in permit activities. The following operating requirements apply to activities conducted under the permit unless otherwise specified in a permit:
1. No one may obstruct traffic, litter, use glass containers, nor disturb, damage, deface or remove natural objects including trees, plants, moss, rock, gravel, or minerals, nor disturb or remove cultural, archaeological, or historical material;
 2. Activities conducted under the permit shall be confined to the area stipulated in the permit application except as required for safety reasons;
 3. No alterations or improvements to the permitted area are allowed, nor may anything be posted or signs of any kind be installed in the area unless expressly allowed by written permission of the administrator;
 4. No one may fish or hunt under this permit unless expressly allowed by written permission of the administrator. No one may harass wildlife. Camping or lighting fires may be permitted in designated areas or areas stipulated in the permit application and subject to approval of the administrator;
 5. The permit holder shall promptly notify the administrator of any accident, injury, or claim relating to the permitted activity;
 6. The permit holder shall promptly notify the parks and recreation manager of any repair or maintenance needed in the permitted area, or any natural condition which constitutes a hazard. The permit holder shall not make any repair or alteration to the area unless required by an emergency and shall promptly report such repair or alteration to the parks and recreation manager;
 7. Permit holders shall comply with all state, federal, and local laws applicable to their activities;
 8. Permit holders shall properly dispose of all litter and waste;
 9. The permit holder shall reimburse the city and borough of Sitka for any damage to municipal property caused by the permit holder while engaged in permit activities, including the cost of litter abatement, removal of structures or remediation of the site to its original condition;
 10. No pets shall accompany any person engaged in permit activities unless the pet is restrained on a leash and all fecal material is promptly removed and properly disposed of;
 11. No equipment or supplies may be stored at any municipal facility or permit area unless written approval of the administrator is secured in advance;

12. All vehicles under the ownership or control of the permit holder shall be lawfully operated or legally parked while the permit holder is engaged in permit activities. The permit holder shall be responsible for following all parking restrictions and requirements imposed by permit conditions. (Ord. 06-14 § 4, 2006; Ord. 04-39 § 4, 2004; S.G.C. § 23.20.070.)

14.10.080 Enforcement and penalties.

- A. A permit may be suspended by the administrator without advance notice if any activities conducted under the permit present an immediate danger to the public health, welfare, or safety or if the suspension is found to be in the best interests of the city and borough of Sitka.
- B. A permit may be suspended or revoked by the administrator upon written findings that the permit holder has violated these regulations. The permit holder shall be provided at least 10 days' notice and an opportunity to be heard at an informal hearing on the suspension or revocation. The administrator's decision may be appealed to the city and borough assembly by filing a notice of appeal setting forth the reasons the decision is appealed with the city and borough assembly no later than 10 days after the administrator's decision.
- C. Any commercial recreational entity found to be operating on municipal lands without a permit from the city and borough of Sitka will be subject to prosecution for an infraction and subject to a fine for that infraction of not more than \$500.00. (Ord. 06-14 § 4, 2006; Ord. 04-39 § 4, 2004; S.G.C. § 23.20.080.)

14.10.090 Definitions.

As used in this chapter:

"Commercial recreational use" or "commercial purpose" means the sale, delivery, or solicitation to provide goods or services in exchange for valuable consideration. The term includes a service offered in conjunction with another sale of goods or services whether or not it is incidental to, advertised with, or specifically offered in the other sale. All guide, outfitter, and transportation services are commercial activities if any payment or valuable consideration through barter, trade, cash or other commercial means is required, expected or received beyond the normal and customary, equally shared cost of food and fuel for any portion of activities conducted on city lands, trails, boardwalks or easements. Commercial recreational use also includes but is not limited to: fishing; hunting; hiking; biking; photography; nature or cultural history tours; etc.

"Municipal lands" means any real property and improvements owned by the city and borough of Sitka.

"Permittee" or "permit holder" means the business entity or its authorized representative conducting commercial activities in a recreation area according to a permit issued under these regulations.

"Trail" means footpaths, bridle paths, bicycle paths, ski trails, dog sled trails, motorized vehicle trails, a road or street that is open to public and used as a trail and other paths and trails along highways, streets, roads or

boardwalks maintained by the city and borough of Sitka. (Ord. 12-40 § 4, 2012; Ord. 06-14 § 4, 2006; Ord. 04-39 § 4, 2004; S.G.C. § 23.20.090.)

The Sitka General Code is current through Ordinance 24-14, passed June 11, 2024.

Disclaimer: The city and borough clerk's office has the official version of the Sitka General Code. Users should contact the city and borough clerk's office for ordinances passed subsequent to the ordinance cited above.

[City and Borough Website: www.cityofsitka.com](http://www.cityofsitka.com)

[Hosted by General Code.](#)

SGC 14.10
Commercial Recreational Use of Municipal Lands and Facilities
Conceptual Code Rewrite

SECTIONS

14.10.010 Policy.

No changes or additions identified by staff.

14.10.020 Lands regulated.

No changes or additions identified by staff.

14.10.030 Permit required for commercial activities.

Changes and additions identified by staff:

- Question: Should this also include permits for those who rent recreational equipment that could/will be used on CBS lands? (“Fixed-Location Sale & Rental”). This will likely require a slightly different permitting process as the recreation areas won’t be as well identified/defined.
- Will need to include a section on the Use Plan
 - Goals: Establish allowed use areas, carrying capacities, allowed uses in each area
 - Process: Annual review and updates by P&R Committee, Assembly adoption
 - Permits will be approved by the administrator in accordance with the use plan (removing requirement that each permit is reviewed/recommended by the Committee)
- New section is needed for the application process:
 - Staff shall annually establish and publish a schedule for application opening and due dates, public comment period, and permit determinations. General timeframe listed here is a point of discussion but likely not to be in the code language:
 - Applications open December 15, close January 21
 - Public comment period opened January 22 – February 22
 - Initial determinations/permits issued March 5
 - Question: Still accept permits after the “regular” period?
 - Public comment: Not likely specified in code language, but point of discussion:
 - Post all permit applications (redacted) on CBS website
 - Provide mail notice to other agencies and partners
 - Use email subscription tool that anyone can sign-up for to receive notifications

- Differentiate between permit renewals and new applications (also see 14.10.060)
- New section needed for administrative review of permits
 - Generally issued in accordance with use plan
 - Provision needed for areas not identified in Use Plan
 - Consideration of information received through public comment
 - Permits are approved, approved with conditions or revisions, or denied
 - Question: Does the code need to specify how permits decisions are made when “demand exceeds supply” for particular areas? Or should this be an administrative policy? Recommended preference order:
 - First: Renewals
 - Second: Whether the permittee has other available alternatives for locations (e.g. smaller operators without vehicles that rely on trails within walking distance of Harrigan or cruise dock)
 - Third: Lottery/random draw
 - Staff would also recommend that revisions/negotiations can take place between CBS & operators to decrease group sizes, number of groups, etc., to accommodate as many requests as possible within Use Plan limits
- New section needed for appeals process: Should P&R Committee be the hearing body? Assembly?

14.10.010 Commercial recreational use permit fees.

No changes identified by staff – As a procedural matter, we could include review and recommendation of the permit fees as a part of the annual Use Plan process and adopted by the Assembly at the same time.

14.10.050 Insurance and indemnification.

No changes or additions identified by staff – Legal review of the code change will include a review of whether insurance levels currently listed are adequate.

14.10.060 Permit duration.

Changes and additions identified by staff:

- Staff recommends keeping the one-year permit duration as a starting point – this may be revisited in the future if longer permit durations seem appropriate.
- Modifications to Section C:
 - Permits are not automatically renewable, but a renewal can be applied for each year.
 - May need to specify that renewals are not automatic, but given preference for areas in which there are more permits than capacity.

14.10.070 General operating requirements.

No changes or additions identified by staff at this time – As a discussion point, some provisions may need to be added for “Fixed-Location Sale & Rental”.

14.10.080 Enforcement and penalties.

Changes or additions identified by staff:

- May want to differentiate between:
 - Temporary suspensions – to deal with immediate issues/risk or non-compliance with permit conditions.
 - Long-term suspensions/revocations – to deal with continued violations of permit conditions or code requirements.
- Appeal process to be specified:
 - Hearing: Administrator, Parks & Rec Committee, Assembly?
 - Process for reinstatement of permit privileges and/or eligibility for future permits.

14.10.090 Definitions.

Changes or additions identified by staff:

- If we will also require permits for “Fixed-Location Sale & Rental”, a definition will need to be developed and added.