



CITY AND BOROUGH OF SITKA

A COAST GUARD CITY

PARKS AND RECREATION DIVISION

MEMORANDUM

To: Chair Poulson and Parks & Recreation Committee Members

From: Kevin Knox, Parks & Recreation Coordinator 
Amy Ainslie, Planning & Community Development Director 

Date: October 31, 2024

Subject: Draft Ordinance SGC 14.10 – Commercial Recreational Use of Municipal Lands and Facilities

Background

With the recent growth in Sitka's visitor industry, the Parks & Recreation Committee has experienced an influx of permit requests under SGC 14.10, "Commercial Recreational Use of Municipal Lands and Facilities". As evidenced in this current permit year, there are shortcomings of the provisions of the current code, particularly with regards to our ability to address commercial use of certain trail systems and other recreational assets within the City and Borough of Sitka.

The purpose of this ordinance is to improve the permit process to include expansion of definitions, establish regular public engagement to establish carrying capacities and land use guidelines, empowering staff to review and issue permits, establish a new process for application, public comment and other administrative guidelines.

As addressed in earlier Parks and Recreation Committee meetings and work sessions, a draft ordinance change has been produced and will be reviewed at the next Parks and Recreation Committee meeting. The draft ordinance was purposely crafted to address some of the identified challenges in current Sitka General Code and permit administration, though will also direct some provisions to be visited annually in the land use planning process. The draft language codifies areas that will remain more static as well as inform an administrative policy and the land use plan.

Proposed Changes

The goals of the code revision include:

- Direct the creation of the commercial recreational use plan
- Define the adoption authority of the use plan
- Outlining the permit application process and timeline
- Define potential permit determinations
- Expanding on terms allowed for permit duration and renewals
- General operating requirements, adding identification requirements
- Expanding on enforcement and penalties
 - Temporary suspensions
 - Indefinite suspensions
 - Permit revision and revocation
 - Expanding Penalties
- Adding Appeals section
 - Outlines process
 - Authorities for review/decision
 - Parks and Rec Committee notice

Recommendation

Staff recommend that the Committee review and provide feedback on the draft ordinance as well as make a recommendation to forward to the Assembly for adoption to the Sitka General Code.

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2024-XX

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA AMENDING TITLE 14 "STREETS, SIDEWALKS AND PUBLIC PLACES" OF THE SITKA GENERAL CODE BY AMENDING CHAPTER 14.10 "COMMERCIAL RECREATIONAL USE OF MUNICIPAL LANDS AND FACILITIES"

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

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 improve the permit process to include expansion of definitions, establish regular public engagement to establish carrying capacities and land use guidelines, empowering staff to review and issue permits, establish a new process for application, public comment and other administrative guidelines.

4. ENACTMENT. NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough of Sitka that the Sitka General Code Title 14 entitled "Streets, Sidewalks and Public Places", Chapter 14.10, entitled "Commercial Recreational Use of Municipal Lands and Facilities", at Sections 14.10.020 entitled "Lands regulated", 14.10.030 entitled "Permit required for commercial activities", 14.10.040 entitled "Commercial recreational use permit fees", 14.10.060 entitled "Permit duration", 14.10.070 entitled "General operating requirements", 14.10.080 entitled "Enforcement and penalties", 14.10.090 to be entitled "Appeals", and 14.10.100 to be added and entitled "Definitions" be amended to read as follows (deleted language stricken, new language underlined):

Title 14
STREETS, SIDEWALKS AND PUBLIC PLACES

Chapters:

14.10 Commercial Recreational Use of Municipal Lands and Facilities

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.

- 53 14.10.060 Permit duration.
- 54 14.10.070 General operating requirements.
- 55 14.10.080 Enforcement and penalties.
- 56 14.10.090 ~~Definitions Appeals.~~
- 57 14.10.100 Definitions.

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59 **14.10.020 Lands regulated.**

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61 A. This title applies to all municipal lands and facilities related to commercial recreational
62 use, including Baranof Warm Springs and other locations beyond the Sitka road system.
63 This title also applies to all trails owned by and easements held by the city and borough
64 of Sitka for parks and recreation purposes. This title also applies to trails for which the
65 city and borough holds joint jurisdiction with an agency of the state of Alaska or the
66 United States government.

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68 B. Commercial recreational use plan.

- 69
- 70 1. The parks and recreation committee shall develop, maintain, and recommend for
71 adoption a commercial recreational use plan that identifies municipal lands and
72 facilities at which commercial recreational use may be permitted. The commercial
73 recreational use plan may also contain limitations on commercial recreational use at
74 each recreational site or facility including but not limited to hours of operation, use of
75 recreational equipment, size and number of client groups, etc.
 - 76
 - 77 2. The commercial recreational use plan shall be adopted by the city and borough
78 assembly.
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 - 80 3. The commercial recreational use plan may be reviewed periodically by the parks and
81 recreation committee and recommended for readoption by the city and borough
82 assembly.
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85 **14.10.030 Permit required for commercial activities.**

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87 A. No person may conduct commercial recreational activities on city and borough of Sitka
88 lands subject to this title except as authorized by a permit issued by ~~the administrator~~
89 municipal staff as designated by the administrator.

90

91 B. ~~The administrator~~ municipality may issue a permit for commercial recreational activities
92 on city and borough lands ~~that are recommended by the parks and recreation committee~~
93 after public hearing and notice in accordance with the commercial recreational use plan
94 as described in 14.10.020(B) and subject to such conditions as the ~~administrator~~
95 municipality may impose and only upon a ~~determination~~ making the following findings
96 and conclusions that the use as proposed:

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- 98 1. Will not pollute or degrade the environment, resources, facilities, or atmosphere
99 of the area; and

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- 101 2. Will not endanger the public health, safety, and welfare; and

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3. Will not significantly interfere with the use and enjoyment of the area by other members of the public; and

4. Conforms to the commercial recreational use plan as adopted by the assembly.

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. 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.

E. Permit application process.

1. The municipality shall annually establish and publish a schedule for permit application opening and due dates, public comment periods, and permit determinations.

2. The period between permit application opening and due dates shall be no less than thirty (30) days.

3. Within ten (10) days of the permit application due date, applications will be made available to the public to review. The public shall have no fewer than twenty (20) days to provide comment on any application.

4. The municipality shall publish permit determinations. Electronic mail notice shall be sent to any person(s) who provided public comment on a permit application.

F. Permit determinations. The municipality may make the following permit determinations:

1. Approve a permit as described in the application;

2. Approve a permit with modifications;

3. Approve a permit with conditions;

4. Deny a permit (reapplication or resubmittal is permitted); or

5. Deny a permit with prejudice (reapplication or resubmittal is not allowed for one year).

In making permit determinations and the required findings and conclusions as described in 14.10.030(B), the municipality shall consider evidence as submitted in the application, through public comment received, and as found in municipal records.

G. The administrator municipality may deny a proposed use permit issuance 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 required findings and conclusions as described in 14.10.030 (B) could not be made. In making such determination, the administrator municipality shall consider public comment received, the nature and extent of the use, the number of users, and the impacts likely to

151 result from the use, including traffic, noise, public access, loading, the availability of
152 parking and other factors. The municipality may also deny an application for a permit
153 with prejudice based on the permit holder's past noncompliance with permit
154 requirements and conditions and/or lack of timely payment of permit fees or other taxes
155 or fees owed to the municipality that have occurred in the previous twelve (12) months.

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158 **14.10.040 Commercial recreational use permit fees.**
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160 The applicant for a commercial recreational use permit shall pay a fee established by the city
161 and borough assembly that will give the city and borough a fair and reasonable return in light of
162 the cost of administering the activity permitted under the permit, the impact of the proposed
163 activity on the area, the cost of any maintenance and improvements required, and the value of
164 the benefit conferred upon the user. The fee shall be paid prior to the commencement of the
165 permitted activity and should be based on the applicant's best estimate of the number of clients
166 and number of days of permitted activity that he/she expects for that season. Reconciliation is
167 done at the end of the season and can result in a ~~credit being carried over to the following~~
168 ~~season refund~~ or additional charges. ~~The minimum fee is \$100.00, regardless of whether a~~
169 ~~commercial operator's service days add up to that amount.~~

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172 **14.10.060 Permit duration.**
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- 174 A. Permits may be issued for a period not to exceed one year.
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- 176 B. Permits are valid only for the dates, times, activities, and areas specified.
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- 178 C. ~~Permits are not automatically renewable. Issuance of a permit shall not entitle the permit~~
179 ~~holder to any priority or preferential consideration for subsequent, new, or additional~~
180 ~~permits for the same or related uses or areas. A new application must be submitted each~~
181 ~~year for each permit. Permit renewals.~~
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- 183 1. Permits are not automatically renewable. Applicants may annually apply for a permit
184 renewal if they had a valid permit the previous year.
- 185 2. In the issuance of a permit renewal, priority or preferential consideration may be
186 given, but not guaranteed, for proposed use of the same areas and/or related uses.
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- 188 D. ~~The administrator~~ municipality may issue a temporary permit at any time, valid for not
189 more than 30 days. The application process for a temporary permit shall be ~~the same as~~
190 ~~for other permits~~ established and published by the municipality.
- 191
- 192 E. The municipality reserves the right to revoke permitted activity on particular lands or at
193 particular facilities, with or without notice, for any period of time, if commercial
194 recreational use of said land or facility presents an immediate danger to the public
195 health, safety, or welfare. This provision should be narrowly applied to address
196 hazardous areas or conditions outside the control of permit holders; this provision shall
197 not be used in place of enforcement and penalty provisions found later in this chapter.

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199 **14.10.070 General operating requirements**

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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.~~ Permit holder identification.

1. Permit holders and their agents or employees shall have a copy of the permit immediately available for inspection at all times while engaged in activities pursuant to the permit.
2. The municipality shall issue a means of visual identification to permit holders and their agents or employees. Visual identification issued by the municipality must be worn by permit holders and their agents or employees at all times while engaged in activities pursuant to the permit and in a manner that is clearly visible to the public.
3. It is unlawful for a permit holder or their agents or employees to fail to have a copy of their permit immediately available for inspection, or to fail to wear visual identification issued by the municipality in a manner clearly visible to the public, 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~~ municipality;
4. No one may fish or hunt under this permit unless expressly allowed by written permission of the ~~administrator~~ municipality. 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~~ municipality;
5. The permit holder shall promptly notify the ~~administrator~~ municipality of any accident, injury, or claim relating to the permitted activity;
6. The permit holder shall promptly notify the ~~parks and recreation manager~~ municipality 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~~ municipality;
7. Permit holders shall comply with all state, federal, and local laws applicable to their activities;

- 249 8. Permit holders shall properly dispose of all litter and waste;
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251 9. The permit holder shall reimburse the city and borough of Sitka for any damage to
252 municipal property caused by the permit holder while engaged in permit activities, including
253 the cost of litter abatement, removal of structures or remediation of the site to its original
254 condition;
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256 10. No pets shall accompany any person engaged in permit activities unless the pet is
257 restrained on a leash and all fecal material is promptly removed and properly disposed of;
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259 11. No equipment or supplies may be stored at any municipal facility or permit area unless
260 written approval of by the administrator municipality is secured in advance;
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262 12. All vehicles under the ownership or control of the permit holder shall be lawfully
263 operated or legally parked while the permit holder is engaged in permit activities. The permit
264 holder shall be responsible for following all parking restrictions and requirements imposed
265 by permit conditions.
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267 **14.10.080 Enforcement and penalties**

268 ~~A.—A permit may be suspended by the administrator without advance notice if any activities~~
269 ~~conducted under the permit present an immediate danger to the public health, welfare, or safety~~
270 ~~or if the suspension is found to be in the best interests of the city and borough of Sitka.~~
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272 ~~B.—A permit may be suspended or revoked by the administrator upon written findings that the~~
273 ~~permit holder has violated these regulations. The permit holder shall be provided at least 10~~
274 ~~days' notice and an opportunity to be heard at an informal hearing on the suspension or~~
275 ~~revocation. The administrator's decision may be appealed to the city and borough assembly by~~
276 ~~filing a notice of appeal setting forth the reasons the decision is appealed with the city and~~
277 ~~borough assembly no later than 10 days after the administrator's decision.~~
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279 ~~A. G.~~ Any commercial recreational entity found to be operating on municipal lands without a
280 permit from the city and borough of Sitka is guilty of a violation, and the offense shall be
281 punishable by a fine of not more than \$500.00. Each and every day during any portion of
282 which a violation is committed, permitted, or continued shall be a separate offense and shall
283 be punished accordingly if so charged.
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285 B. Temporary permit suspensions.

286 1. A permit in whole, or particular activities authorized under a permit, may be temporarily
287 suspended for no more than thirty (30) days by the municipality without advance notice if
288 any activities conducted under the permit present an immediate danger to the public
289 health, welfare, or safety, or if the suspension is found to be in the best interests of the
290 city and borough of Sitka.
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292 2. The municipality shall provide the permit holder with notice of a temporary suspension
293 via electronic mail and certified mail to include:

- 294 a. The effective date of temporary suspension;
295 b. The permitted activities that are temporarily suspended;
296 c. The reason(s) for temporary suspension; and
297 d. Corrective actions for the permit holder to take.

298 3. A temporary suspension will automatically be void after thirty (30) days unless the
299 municipality voids it sooner through written notice to the permit holder, or unless the
300 temporary suspension is superseded by an indefinite suspension or revocation. The
301 municipality shall not unreasonably withhold relief of a temporary suspension if the
302 permit holder provides evidence that all reasonable efforts to complete corrective actions
303 as identified in the notice of temporary suspension have been taken.

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305 C. Indefinite permit suspensions.

306 1. A permit in whole, or particular activities authorized under a permit, may be suspended
307 indefinitely by the municipality with no fewer than thirty (30) days advanced notice
308 beginning on the date of electronic mail delivery upon written findings that any permittee
309 activities, or permittee nonaction, violate the provisions of this chapter or any
310 requirements or conditions of the permit. The permit holder may also be subject to fines
311 for such violations as described in section (E)(2).
312 2. The municipality shall provide the permit holder with notice of an indefinite suspension
313 via electronic mail and certified mail to include:
314 a. The effective date of indefinite suspension;
315 b. The permitted activities that will be indefinitely suspended;
316 c. The reason(s) for indefinite suspension;
317 d. Any fines imposed against the permit holder;
318 e. Corrective actions for the permit holder to take, including payment of fines, in
319 order to prevent or lift the indefinite suspension.
320 3. The indefinite suspension shall remain in effect unless the municipality voids it through
321 written notice to the permit holder. The municipality shall not unreasonably withhold relief
322 of an indefinite suspension if the permit holder provides evidence that all reasonable
323 efforts to complete corrective actions as identified in the notice of indefinite suspension
324 have been taken.

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326 D. Permit revision and revocation.

327 1. A permit in whole, or authorization of particular activities under a permit, may be revised
328 or revoked by the municipality with no fewer than thirty (30) days advanced notice
329 beginning on the date of electronic mail delivery if the findings and conclusions listed in
330 14.10.030(B)(1-4) can no longer be made about the use in practice and as permitted.
331 2. The municipality shall provide the permit holder with notice of a revision or revocation via
332 electronic mail and certified mail to include:
333 a. The effective date of revision or revocation;
334 b. The permitted activities that will be revised or revoked;
335 c. The reason(s) for revision or revocation;
336 d. The opportunity for the permit holder to submit a proposal for modification to
337 include alternative revisions, additional permit conditions, or other mitigations for
338 the municipality's consideration within ten (10) days of the notice.
339 3. If the permit holder submits a proposal for modification, the municipality shall determine
340 whether the findings and conclusions listed in 14.10.030(B)(1-4) can be made about the
341 use as modified within ten (10) days of receiving the permit holder's proposal for
342 modification. A written notice of such determination shall be provided to the permit
343 holder indicating whether:
344 a. The proposal for modification has been accepted by the municipality, thereby
345 voiding the previous notice of revision or revocation; or

- 346 b. The proposal for modification has been rejected by the municipality, thereby
347 validating the previous notice of revision or revocation.
348 4. In the case a proposal for modification is accepted by the municipality, the municipality
349 will reissue the permit to incorporate the provisions of the accepted modifications.

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351 **E. Penalties for permit holder violations.**

- 352 1. If the municipality finds that a permit holder has grossly under-reported the number of
353 clients in year-end reconciliation reports, the permit holder shall be required to pay the
354 per client fee for the under-reported clients, as well as a penalty equivalent to two (2)
355 times the per client fee for each under-reported client. Subsequent permits will not be
356 issued until all fees and penalties have been paid.
357 2. Any other violations of the provisions of this chapter or as outlined in the permit will be
358 subject to a daily violation fine not to exceed more than \$100.00 per day.
359 3. Making a false statement or presenting false or purposefully altered documents is
360 prohibited and may be grounds for indefinite permit suspension. This provision applies to
361 all persons, agents, and employees conducting activities under the authority of this
362 permit.

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365 **14.10.090 Definitions Appeals.**

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367 A. Appeals to the administrator. Appeals of permit determinations, temporary permit
368 suspensions, indefinite permit suspensions, permit revisions or revocations, or any fines
369 or penalties imposed by the municipality shall be heard by the municipal administrator.
370 1. Filing. Appeals shall be addressed to the municipal administrator and filed with the
371 municipal clerk within ten (10) days of the permit determination date or notice of
372 suspension, revocation, revocation, or imposition of fines or penalties as applicable.
373 2. Contents. The appeal shall contain the decision being appealed, the name and
374 address of the appellant and their interest(s) in the matter, the specific reasons why
375 the appellant believes the decision to be wrong, and the desired outcome or
376 requested changes to the decision. The appellant may also, but is not required to,
377 request a hearing before the municipal administrator; such request must be included
378 in the contents of the appeal.
379 3. The municipal administrator shall only grant an appeal if they determine that the
380 subject decision was made in error with regards to municipal staff's administration
381 and application of the provisions of this chapter. The appellant shall bear the burden
382 of proving the decision was made in error.
383 4. Hearing. Upon request for a hearing, a hearing shall be held before the municipal
384 administrator. The hearing shall be set and conducted within five (5) days of the
385 request, holidays, Saturdays, and Sundays not to be included.
386 5. Final Decision. The municipal administrator shall issue a final decision on the appeal
387 within ten (10) days of the appeal filing date if no hearing was requested, and within
388 fifteen days (15) days of the appeal filing date if a hearing was requested. The parks
389 and recreation committee shall be provided a copy of all final decisions on appeals.
390
391 I. Reconsideration by the assembly. A party to an appeal may seek assembly
392 reconsideration of a final decision as issued by the municipal administrator.
393 1. Filing. Requests for reconsideration shall be made in writing and filed with the
394 municipal clerk within ten (10) days of the final decision.

- 395 2. Contents. The request for reconsideration shall contain the final decision to be
396 reconsidered, the name and address of the requesting party and their interest(s) in
397 the matter, the specific reasons why the requesting party believes the decision to be
398 wrong, and the desired outcome or requested changes to the decision.
399 3. The assembly shall only grant a request for reconsideration if the preponderance of
400 evidence suggests that the subject decision may have been made in error. The
401 requesting party shall bear the burden of proving the decision was made in error.
402 4. The assembly shall consider the request at its next regularly scheduled meeting, at
403 which it may grant or deny the request. If the request is denied, the previous action
404 shall remain final. If the request is granted, the assembly may:
405 a. Remand the matter back to the municipal administrator, specifying the items or
406 issues to be considered and the timeframe for completing the additional work; or
407 b. Call for argument. If the assembly calls for argument, the assembly shall set a
408 meeting date to hear argument either in public or executive session. When
409 setting a meeting date to hear argument, the assembly shall also establish the
410 hearing procedure, specify items or issues to be addressed in argument, and
411 identify person(s) to be called for argument. After hearing argument, the
412 assembly may:
413 i. Uphold the decision as made by the municipal administrator;
414 ii. Revise the decision as made by the municipal administrator; or
415 iii. Overturn the decision as made by the municipal administrator.
416 5. Decisions made by the assembly are final.
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419 **14.10.100 Definitions.**

420 As used in this chapter:

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423 “Commercial recreational use” or “commercial purpose” means the sale, delivery, or solicitation
424 to provide goods or services in exchange for valuable consideration. The term includes a
425 service offered in conjunction with another sale of goods or services whether or not it is
426 incidental to, advertised with, or specifically offered in the other sale. All guide, outfitter, and
427 transportation services are commercial activities if any payment or valuable consideration
428 through barter, trade, cash or other commercial means is required, expected or received beyond
429 the normal and customary, equally shared cost of food and fuel for any portion of activities
430 conducted on city lands, trails, boardwalks or easements. Commercial recreational use also
431 includes but is not limited to: fishing; hunting; hiking; biking; photography; nature or cultural
432 history tours; etc.
433

434 “Municipal lands” means any real property and improvements owned by the city and borough of
435 Sitka.
436

437 “Permittee” or “permit holder” means the business entity or its authorized representative
438 conducting commercial activities in a recreation area according to a permit issued under these
439 regulations.
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441 “Trail” means footpaths, bridle paths, bicycle paths, ski trails, dog sled trails, motorized vehicle
442 trails, a road or street that is open to public and used as a trail and other paths and trails along
443 highways, streets, roads or boardwalks maintained by the city and borough of Sitka.

444
445 “Guiding” means providing services or assistance (such as supervision, protection, education,
446 training, packing, touring, transporting people of interpretation) for monetary or other gain to
447 individuals or groups on municipal lands.

448
449 “Outfitting” means renting on or delivering to municipal lands for monetary or other gain any
450 vehicle, bicycle, e-bike, boat, kayak, canoe (motorized or human powered), camping gear, or
451 other similar supplies or equipment.

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455 **5. EFFECTIVE DATE.** This ordinance shall become effective the day after the date
456 of its passage.

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458 **PASSED, APPROVED, AND ADOPTED** by the Assembly of the City and Borough of
459 Sitka, Alaska, this _____ day of _____, 2024.

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461 _____
462 Steven Eisenbeisz, Mayor

463 ATTEST:

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466 _____
467 Sara Peterson, MMC
468 Municipal Clerk

469
470 1st reading: xx/xx/xx

471 2nd and final reading: xx/xx/xx

472
473 Sponsor: