

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2022-02

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA AMENDING TITLE 11 "VEHICLES AND TRAFFIC" OF THE SITKA GENERAL CODE BY REPEALING SECTION 11.28.040 "EXCEPTION - PROHIBITION OF ALL-PURPOSE VEHICLES TRAVELING ON PUBLIC ROADWAYS" IN CHAPTER 11.28 "STATE TRAFFIC LAWS ADOPTED" AND ADDING CHAPTER 11.75 "ALL- PURPOSE VEHICLES"

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 repeal the prohibition of all-purpose vehicles traveling on public roadways and to establish authority and set standards for the use of all-purpose vehicles on public roadways within the city and borough. These standards include defining "all-purpose vehicle", requiring a municipal permit, driver's license, state registration, and insurance, and establishing safety equipment standards, protective equipment standards, traffic laws, hours of operation, and prohibited places of operation without a permit. In addition, this ordinance provides that citations for defective equipment may be voidable upon repair or adjustment and establishes penalties for violations. The intent is to allow all-purpose vehicles to travel on public roadways while protecting public safety consistent with existing vehicle and traffic laws.

4. ENACTMENT. NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough of Sitka that the Sitka General Code Title 11, entitled "Vehicles and Traffic", be amended by repealing Section 11.28.040, entitled "Exception- Prohibition of All-Purpose Vehicles Traveling on Public Roadways", and adding Chapter 11.75, entitled "All-Purpose Vehicles", to read as follows (deleted language stricken, new language underlined):

Title 11
VEHICLES AND TRAFFIC

Chapters:

- 11.28 State Traffic Laws Adopted
11.75 All-Purpose Vehicles

Chapter 11.28
STATE TRAFFIC LAWS ADOPTED

Sections:

- 11.28.010 Traffic code—Adoption of state traffic laws.
11.28.020 Adoption of state penalties.
11.28.030 Violation—Infraction.
11.28.040 Exception—Prohibition of all-purpose vehicles traveling on public roadways.

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~~11.28.040 Exception – Prohibition of all-purpose vehicles traveling on public roadways. No driver of an all-purpose vehicle may travel on a public roadway within the city and borough of Sitka. The city and borough of Sitka adopts all state traffic regulations that otherwise reference or define “all-purpose vehicle” as they presently exist and as they may be revised in the future as part of the traffic code for the city and borough of Sitka.~~

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Chapter 11.75
ALL-PURPOSE VEHICLES

Sections:

- 11.75.010 Definitions.
- 11.75.020 State traffic laws and regulation with respect to APVs adopted by reference.
- 11.75.030 APV permit from the city and borough.
- 11.75.040 Operations of APVs on public roadways within the city and borough.
- 11.75.050 Citation for defective equipment.
- 11.75.060 Penalties.

* * *

11.75.010 Definitions.

For purposes of this chapter the following definitions shall apply, unless the context clearly indicates or requires a different meaning:

- A. “All -purpose vehicle” (APV) or “All-purpose vehicles” (APVs) mean any self-propelled vehicle designed to travel on wheels or tracks in contact with the ground and are commonly used to transport persons for recreational purposes, including vehicles such as four-wheel drive units, all-terrain vehicles (ATVs), or utility terrain vehicles (UTVs), and does not include off-highway vehicles in 13 AAC 40.010(a)(30).
- B. “Public roadway” means the entire width between the boundary lines of every way that is publicly maintained when a part of it is open to public vehicular traffic, including, but not limited to, all highways, roadways, right-of-ways, streets, and alleys.
- C. “Vehicle” is defined in SGC section 11.04.140, as it presently exists and as it may be revised in the future.

11.75.020 State traffic laws and regulations with respect to APVs adopted by reference.

- A. The city and borough adopt all traffic laws and regulations of the state, as they presently exist and as they may be revised in the future, with respect to APVs, unless such law or regulation conflicts with any provision of this chapter. In the event of such a conflict, this chapter shall control to the extent it is not preempted by state law.
- B. All citations issued under this chapter shall use either the section number under this chapter or the appropriate Alaska Statute (“AS”) or Alaska Administrative Code (“AAC”) statute or regulation number, include a description of the offense, and indicate when using an AS or AAC number that the offense was adopted by reference as a city and borough ordinance, and state that the charging entity is the city and borough.
- C. When the context requires, the term “Alaska State Trooper” or “peace officer” when used in a provision incorporated by reference under this section shall be deemed to mean and

105 construed as identical with chief of police, police officer, or such other local police officer sworn
106 to enforce the laws of the city and borough. When the context requires, the term “department”
107 appearing in the Alaska Statutes and Alaska Administrative Code provisions adopted by
108 reference shall be construed to mean the Sitka Police Department.
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110 **11.75.030 APV permit with the city and borough.**

111 A. Permit. The owner of an APV must obtain an APV permit from the city and borough
112 before that APV may travel upon the public roadways within the city and borough.
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114 B. Application. An application for a permit shall be filed with the chief of police upon forms
115 provided by the city and borough. The application shall be accompanied by a nonrefundable fee
116 to be determined by the chief of police, such application shall include the name, mailing
117 address, residential address, and email address, if any, of the owner(s), the year, make, model
118 and vehicle identification number of the APV, and any other information as the chief of police
119 may require. The application shall be signed by the applicant, and such signature shall
120 constitute the applicant’s consent to an inspection of the APV conducted by the department for
121 compliance with the safety equipment requirements under this chapter.
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123 C. Inspection. The department shall conduct an inspection of the APV for compliance with
124 the safety equipment requirements under this chapter, and a report of such inspection shall be
125 maintained.
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127 D. Insurance. Applicants shall provide proof of insurance required by this chapter in the
128 form of a standard certificate of insurance. The policy shall be maintained in full force effect
129 during the duration of the permit. Any permit issued under this chapter shall expire automatically
130 upon cancellation of the insurance required under this chapter.
131

132 E. Consideration of application/appeals. The chief of police, after considering the
133 application, the inspection report, and the certification of insurance, shall approve or deny the
134 application. The chief of police shall issue a written statement of reasons for denial. If the
135 application is denied, the applicant may request a hearing, as provided in subsection (M) below,
136 before the chief of police to offer evidence why the denial should be reconsidered or to establish
137 that reasons for denial have been cured. A denial may be appealed to the administrator as
138 provided in subsection (M) below.
139

140 F. Revocation or suspension of permit. The permit issued under this chapter shall be
141 revoked by the chief of police if the owner and/or operator(s) of the APV violates any of the
142 provisions of this chapter three times during the duration of the permit. Upon determining that a
143 immediate danger to persons or property exists, the chief of police may suspend the permit at
144 once. The suspension shall take effect immediately upon written notice of the suspension being
145 received by the owner or operator of the APV either in person or by mail or email.
146

147 G. Change of ownership. Any change of ownership of an APV shall require a new
148 application and permit.
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150 H. Duration. Permit shall be valid from the date of issuance for a term of three years.
151

152 I. Renewal and late penalty. The application for renewal of the permit shall be made to the
153 chief of police prior to the permit expiration date. A penalty to be determined by the chief of
154 police shall be added to the permit fee accompanying a renewal application received after the
155 expiration date.

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J. No transfer of permit. No permit issued in accordance with this chapter may be sold, assigned, or otherwise transferred.

K. Permit property of the city and borough. Any permit issued in accordance with this chapter shall remain the property of the city and borough, and upon expiration, revocation, or suspension, it shall be returned to the city and borough. If a permit is lost or destroyed, upon affidavit made as to its loss or destruction, it may be replaced upon payment of a required fee to be determined by the chief of police.

L. Notice of suspension or revocation. Prior to revocation or suspension of a permit issued under this chapter, the chief of police shall provide written notice to the permittee. The notice shall contain the following information: the name and title of the person issuing the notice; the date on which the suspension or revocation will become effective; the reason for the revocation or suspension; that the permittee may request a hearing regarding the revocation or suspension; and, that the request for a hearing must be made in person or in writing and received by the chief of police within ten days after receipt of the notice; that failure to appear in person or mail a letter within ten days after receipt of the notice or by its return by the U.S. Postal Service shall act as a waiver of the right to a hearing and the revocation or suspension will, as applicable, become effective on the date included in the notice. The notice shall be delivered to the permittee in person or by first class mail to the last known address stated in the hearing request or, if none, in the permit application.

M. Hearing. Upon request of a hearing, as provided subsections (E) and (L) above, a hearing shall be held before the chief of police. The hearing shall be set and conducted within forty-eight hours of receipt of the request, holidays, Saturdays, and Sundays not to be included. The hearing can be set for a later date if the permittee so requests. At the hearing the applicant or permittee may contest the denial, revocation, or suspension of the permit. If the chief of police finds that the applicant or permittee is not eligible for a permit or the suspension or revocation is warranted, the chief of police may declare the permit denied, revoked, or suspended, as applicable. The decision of the chief of police is appealable to the administrator which must be made within ten days of the decision and must be in writing. The decision of the administrator is final. If the applicant or permittee does not appear at the scheduled hearing, the chief of police or administrator shall enter a written order supporting the denial, revocation, or suspension of the permit. The decision or order shall be delivered to the applicant or permittee in person or by first class mail to the last known address stated in the hearing request or, if none, in the permit application.

11.75.040 Operation of APVs on public roadways within the city and borough.

APVs may operate on the public roadways within the city and borough, subject to the following conditions:

A. Driver's License. The person operating the APV must be a duly licensed driver in the state and at least 16 years of age.

B. State Registration. APV must be registered as required by state law, and proof of registration must be presented upon demand as required by state law.

C. Insurance. The APV must have liability insurance required by state law, and proof of insurance must be presented upon demand as required by state law.

207 D. Safety equipment. The APV must be equipped with the appropriate safety equipment,
208 including headlights, taillights, turn signals, muffler, throttle, fenders, brakes, rearview mirror,
209 horn, speedometer, and seatbelts (UTVs only), all in operating order, and which meet or exceed
210 state or municipal regulations. When driving on a public roadway within the city and borough,
211 APVs must be equipped with:

- 212
- 213 1. At least one headlight, aimed and of sufficient intensity to reveal persons and
214 vehicles at a distance of one hundred feet ahead;
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 - 216 2. One red light, one stop-signal light, and one red reflector, which must be
217 mounted upon the rear or rear cowling of the APV, and the lights must be visible from a
218 distance of at least one thousand feet to the rear, and the reflector must be visible from a
219 distance of at least six hundred feet to the rear when directly in front of the lawful lower
220 beams of the headlights of a vehicle or APV;
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 - 222 3. Turn signals mounted on the front and rear of the APV, which must be visible
223 from a distance of at least one thousand feet to the front and six hundred feet to the rear
224 when directly in front of the lawful lower beams of the headlights of a vehicle or APV;
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 - 226 4. An exhaust muffler in good working order, and may not use a muffler cutout,
227 bypass, or other similar device;
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 - 229 5. A throttle or idle spring in good working condition which, when released, will
230 return the engine speed to idle, close the carburetor, and disengage the clutch;
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 - 232 6. Fenders designed by the manufacturer for use by APVs on public roadways
233 whether paved or not;
 - 234
 - 235 7. Brakes which will control the movement, stop, and hold the APV under normal
236 driving conditions on any grade upon which it normally may be driven, and under all
237 conditions of loading;
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 - 239 8. A rearview mirror in good working condition;
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 - 241 9. A horn in good working condition;
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 - 243 10. A speedometer in good working condition;
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 - 245 11. Seatbelts but only required for UTVs.

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247 E. Protective equipment. Operators must wear protective headgear and an eye-protective
248 device, except for UTVs equipped with seatbelts, that meet or exceed state or municipal
249 regulations.

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251 F. Traffic laws. The operator of an APV must observe all state and municipal laws which
252 pertain to the operation of vehicles upon a public roadway. When driving on a public roadway
253 within the city and borough, APVs:

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- 255 1. Must stay on the correct side of the lane of traffic except when crossing the
256 public roadway;
- 257

- 258 2. Must travel in single file, not abreast of other moving vehicles or APVs;
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- 260 3. May not pass other moving vehicles or APVs;
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- 262 4. May not weave in and out of traffic;
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- 264 5. May not operate in any other manner that may be considered careless, reckless
- 265 or negligent;
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- 267 6. May not allow passengers, except for UTVs equipped with seatbelts;
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- 269 7. Must not exceed the weight limit as established by the manufacturer (including
- 270 cargo) and must be of a weight that the operator is able to control the movement of and
- 271 to stop and hold it under normal conditions of operations;
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- 273 8. May not exceed the posted speed limit;
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- 275 9. Must be equipped with an engine of 250 cc or more;
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- 277 10. Must be able to travel at the posted speed limit of the public roadway it travels
- 278 upon;
- 279
- 280 11. Must be able to travel under two-wheel drive;
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- 282 12. Must comply with noise and smoke rules as provided in SGC Section 11.44.020.
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- 284 13. Must comply with rules related to obstruction to a driver's view as provided in
- 285 SGC Section 11.44.030.
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- 287 14. Must not travel on public roadways while towing a trailer, sled, toboggan or other
- 288 object.
- 289

290 G. Hours of operation. Operation of an APV is prohibited on a public roadway within the
291 city and borough from 12:00 a.m. to 5:00 a.m. of every day of the week, except when
292 circumstances exist which justify an exception because operation of the APV was necessary or
293 unavoidable. Exceptions are limited to non-recreational use and may only be allowed when
294 involved in an emergency or going to or returning from employment, without detour or stop, or
295 engaged in an employment activity, without detour or stop. There is no seasonal limitation on
296 operation of APVs on public roadways within the city and borough.

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298 H. APVs may not operate on municipal parks, lands and trails without a written permit
299 obtained under SGC Chapter 23.10.

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301 **11.75.050 Citation for defective equipment voidable upon repair or adjustment by owner**
302 **or operator.**

303 A. A police officer may issue a citation to the owner or operator of an APV, which is not in
304 safe mechanical condition or properly equipped as required by state law, or the safety or
305 equipment provisions of this chapter. A citation issued under this section shall specify the repair
306 or adjustment to be made.

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308 B. An owner or operator cited under this section shall within a time specified by the citing
309 officer appear at the offices of the department and present acceptable evidence of having made
310 the repairs or adjustment or present the APV for re-inspection. If the defective part or item is at
311 that time determined to be in good repair, and the APV otherwise meets the requirements of this
312 chapter, the inspecting officer shall void the citation. Failure to present evidence of repair or
313 adjustment or to present the APV for re-inspection within the time specified shall result in the
314 action or penalties permitted by this chapter.

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316 **11.75.060 Penalties.**

317 A. Violation of any provision of this chapter shall be a minor offense punishable by a fine as
318 provided in this section, or if no fine is established, a fine not to exceed five hundred dollars.

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320 B. In accordance with AS 29.25.070(a), citations for offenses in this chapter may be
321 disposed of as provided in AS 12.25.175 through 12.25.230, without a court appearance, upon
322 payment of the fine amounts stated herein plus the state surcharge required by
323 AS 12.55.039 and 29.25.074. Fines must be paid to the city and borough. The Alaska Rules of
324 Minor Offense Procedure in the Alaska Rules of Court apply to all offenses referenced herein.
325 Citations charging these offenses must meet the requirements of Rule 3 of the Alaska Rules of
326 Minor Offense Procedure. For the first offense, the fine shall be fifty dollars. For the second
327 offense, the fine shall be one hundred dollars. For the third offense, the fine shall be two
328 hundred fifty dollars. For any subsequent offense after three, the offender must appear in court
329 to answer for the charges. If a person charged with one of these offenses appears in court and
330 is found guilty, the penalty imposed for the offense may not exceed the fine amount for that
331 offense stated herein. These fines may not be judicially reduced. For purposes of this chapter,
332 prior offenses must be within the previous three years.

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334 C. Each and every day during any portion of which a violation or failure to comply is
335 committed, permitted, or continued, shall be treated as a separate offense, and subject the
336 offender to separate charges and a fine as provided in subsection (B) of this section.

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

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342 **PASSED, APPROVED, AND ADOPTED** by the Assembly of the City and Borough of
343 Sitka, Alaska, this 22nd day of February, 2022.

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346 _____
Steven Eisenbeisz, Mayor

347 ATTEST:

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349 _____
350 Sara Peterson, MMC
351 Municipal Clerk

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353 1st reading: 2/8/2022

354 2nd and final reading: 2/22/2022

355
356 Sponsors: Christianson / Miller
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