

CITY AND BOROUGH OF SITKA
ORDINANCE NO. 2024-__

BALLOT PROPOSITION OF OCTOBER 2024

**AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA,
LIMITATION OF CRUISE VISITATION IN SITKA**

1. CLASSIFICATION. This ordinance is of a permanent nature and is intended to become 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. This voter-initiated ordinance limits the amount of cruise visitation (“persons ashore”) starting from the beginning of the 2025 cruise season. The purpose is to reduce impacts to Sitka residents and Sitka’s small-town character caused by the large increases in cruise visitation that began in 2022. The ordinance creates Title 25 (“Tourism”) and Chapter 25.01 (“Limitation of Cruise Visitation”) in the Sitka General Code.
4. ENACTMENT. NOW, THEREFORE, BE IT ENACTED by action of the electorate of the City and Borough of Sitka, that Title 25 and Chapter 25.01 are added to the Sitka General Code, as follows:

TITLE 25 — TOURISM

Chapter 25.01 — Limitation of Cruise Visitation

Sections:	
25.01.010 Purpose and Intent	25.01.050 Cruise ship and port facility permits
25.01.020 Definitions	25.01.060 Management of cruise visitation data
25.01.030 Caps on cruise visitation	25.01.070 Non-interference with seafarers & passengers
25.01.040 Scheduling of cruise visitation	25.01.080 Enforcement

25.01.010 Purpose and Intent

This chapter limits cruise visitation from the start of the 2025 cruise season onward to: (1) improve safety, reduce nuisances, and better protect the health and wellbeing of Sitka residents by reducing cruise-related overcrowding of people and vehicles on Sitka’s highways, streets, sidewalks, trails, waterways and public places; (2) protect Sitka’s rural subsistence status, small town character and way of life; and (3) regain Sitka’s integrity as a high-quality destination for international, national and Alaskan visitors of all kinds.

This chapter manages cruise visitation through limitations on the number of “persons ashore” at daily and annual scales, the number of days per week that ships can call, and the length of the cruise season.

To implement the limits, this chapter requires each cruise ship and each port facility to have a valid, annual municipal permit. It establishes a system for prescheduling the maximum persons ashore from each ship on each day of the cruise season to avoid exceeding the caps. The ordinance provides for enforcement, principally through fines. Fines will only be imposed on permit holders, not passengers or

crew. Permit holders are required to collect and report data, to be used for enforcement and to inform planning and the public.

25.01.020 Definitions.

- A. "CBS" means the government of the City and Borough of Sitka.
- B. "Crew" means any ship's personnel aboard when the ship arrives or who join the ship in Sitka.
- C. "Cruise season" means May 1 through September 30, subject to being set to a shorter season, by ordinance, at any time, regardless of the restrictions in SGC 2.80.050A.
- D. "Cruise ship" means a commercial passenger vessel that provides passengers a tourist experience and calls on several ports. Vessels operating normal ferry services are excluded. (For vessels with a maximum capacity of less than 250 persons see 25.01.030(A)(4) and (A)(5).
- E. "Department" or "department(s)" means the planning and/or ports and harbors department, or designated department head, supervisor, or designee as determined by the municipal administrator.
- F. "Lighter" means a vessel that transfers people between a cruise ship and a port facility, including tour boats, charter boats, or any other boats.
- G. "Persons ashore" means, depending on context, either: (1) the number of people ashore as a result of *all* cruise ship visits *combined* during a relevant period of time (e.g., a day or year); or (2) the number of people ashore from a certain cruise ship for a period of time, plus people who are beginning or ending an itinerary or period of service on the ship.
- H. "Port facility" means any public or private dock, wharf or onshore place at which cruise ship passengers or crew disembark or embark a cruise ship or lighter.
- I. "Schedule" means the city and borough's Sitka Cruise Visitation Schedule.
- J. "Week" means a period of Sunday through Saturday.

25.01.030 Caps on cruise visitation

- A. In administering the scheduling and permit systems in sections 25.01.040 through .060, the department shall adhere to the following caps on cruise visitation:
 - 1. The sum of scheduled "persons ashore" for any day of the cruise season shall not exceed 4,500;
 - 2. The sum of scheduled "persons ashore" during the cruise season shall not exceed 300,000;
 - 3. These caps in sections (A)(1) and (A)(2) are independent of each other; both must be satisfied;
 - 4. Port calls shall not be allowed on more than six days per week, unless excepted in (A)(6) or (7);
 - 5. No port calls shall be allowed outside of the cruise season, unless excepted in (A)(6) or (7);
 - 6. A Cruise ship with maximum overnight accommodations for 250 or less passengers shall not count toward the caps in sections (A)(1) and (A)(2) and may make a port call on any day, regardless of A(4).

7. A commercial vessel with maximum overnight accommodations for twelve or fewer passengers is exempt from the requirements and limitations of this chapter, thus its passengers and crew shall not count toward the caps in sections (A)(1) and (A)(2).

8. No person shall be impeded from disembarking or embarking a ship, even if a port call causes exceedance of a cap or of a ship's scheduled "persons ashore." See 25.01.070.

25.01.040 Scheduling of cruise visitation

A. The municipal administrator shall designate a department or department(s) to develop and maintain the Sitka Cruise Visitation Schedule ("the schedule"). The schedule shall list each ship authorized for each day and the number of "persons ashore" authorized for each ship.

B. The schedule must comply at all times with the caps in 25.01.030. If a cruise ship makes a port call that is not in the schedule, the ship and the port facility it utilizes are in violation of this chapter. If a cruise ship has more persons ashore during a port call than is authorized in the schedule, the ship is in violation of this chapter.

C. A public CBS cruise scheduling webpage shall inform cruise ships and cruise lines how and when to apply for port call authorizations in the schedule. A port call authorization is an authorization in the schedule on a specific date for a specific ship to make a port call that will result in no more than an applied-for number of "persons ashore."

D. The current schedule shall be available through the scheduling webpage and shall be updated without delay as schedule changes are made. An archive with each version of the schedule shall be maintained.

E. A qualified applicant ("applicant") in the scheduling process shall be either: (1) a parent or holding company that has multiple cruise line brands visiting Sitka during the year; or (2) an individual cruise line. The scheduling process shall operate as set forth below.

1. Preseason Scheduling. Preseason applications for port call authorizations in a year's initial version of the schedule may be submitted by an applicant, within start and end dates determined by the department and stated via public notice and on the scheduling webpage. To be eligible to apply for a preseason port call authorization for a ship, the ship must have a valid permit issued under 25.01.050 for that cruise season. The notice shall include a date and time for an in-person and/or virtual scheduling conference ("the conference"), which all applicants must attend to determine an initial version of the schedule that satisfies the annual caps in 25.01.030.

To qualify for consideration for a port call authorization, an application must include: (1) name and contact information of the applicant and the company representative filing the application; (2) ship(s) name(s), itinerary number(s), arrival and departure date(s) in Sitka; (3) for each port call the maximum number of "persons ashore"; (4) identification of the port facility the applicant will use for each port call; (5) the origin and end points of each itinerary; and (6) payment of the application fee. The application fee shall be \$250 per ship. Multiple requests for port call authorizations in the schedule may be made by submitting a cover sheet and a spreadsheet organized by date(s) of arrival and secondarily by ship name(s).

The process described in (a)- (e) below shall be utilized for at least the 2025 and 2026 schedules, and the municipal administrator may adopt regulations to implement it. For later years, the municipal administrator may recommend to the assembly adoption of this procedure or some other orderly preseason process for regionally scheduling cruise ships.

a. The conference will be convened by the responsible department. The scheduling process at the conference shall follow these steps.

b. First, port call authorizations requested by applicants with itineraries beginning or ending in Sitka shall be automatically authorized in the schedule unless a cap would be exceeded.

c. At the conference, the department shall randomly draw names of applicants to determine the initial order in which they will request port call authorizations. In each pass, each applicant in turn may request, for each month of the cruise season, one of its applied-for port call schedule authorizations, and the port call authorization shall be authorized if there is sufficient available capacity for it under the caps.

d. If in section (b) or (c) a requested port call authorization cannot be authorized because it would conflict with a cap, the applicant may instantly request an alternative port call authorization (i.e., modifying the itinerary of that ship), and the alternate port call authorization shall be authorized if exceedance of a cap will not result.

e. During the process in (b) through (e), tallies regarding the annual cap and the daily caps shall be monitored. The conference shall be open until the process either reaches an impasse because no further applications can be placed due to the caps, or all applications have been satisfied. The conference may continue for an additional day or more, if applicants wish to seek refinement of the schedule. An applicant may request to shift one or more of its authorized port calls for a beneficial purpose, such as to better utilize potential capacity under the caps of 25.01.030. Such requests will be taken by using the above queue method. The shifts may be for an individual ship, among an applicant's ships that are in the schedule, or with the consent of another applicant with its ship(s). The department shall allot freed up space to the moving party or the party's designee(s) if the caps will be satisfied, or if unclaimed the space will be available for a later applicant.

The initial version of the Sitka Cruise Visitation Schedule is final when the conference concludes, and it shall be posted on the website. Port call authorizations in the schedule are non-transferable. Additions and changes to the schedule can later be made only through the processes in subsection (2) below. An updated version of the schedule shall be posted.

2. Later Schedule Additions and Changes. A cruise line or its authorized representative may apply for an unfilled space in the schedule that the applicant can utilize within the caps in 25.01.030. Such applications may be made any time after the initial version of the schedule has been finalized and posted, before or during the cruise season. Applications must be filed at least 24 hours before arrival. An application may be for a new listing in the schedule, or a shift to another day in the schedule that the applicant can utilize within the caps. An application that is timely in both respects, satisfies the caps and includes all information specified in the Preseason Scheduling section is a qualified application.

An unfilled port call authorization in the schedule shall be authorized for the first qualified application received. In the case of simultaneous applications, the department shall make one or more authorizations that most fully utilizes unfilled space, within the caps. If there still is a deadlock, a coin toss may be used.

Permit holders with authorized port calls shall notify the department as soon a decision is made to cancel a scheduled port call. When port call authorization is made available through a cancelation or a shift in the schedule, the availability shall be posted on the scheduling webpage.

3. Exceedance of a ship's scheduled "persons ashore." A ship having more "persons ashore" during a port call than scheduled is in violation of this chapter, which shall be enforced through 25.01.080(B).

25.01.050 Cruise ship and port facility permits

A. The permits required by this section are intended to: (i) ensure awareness by the cruise industry of its responsibilities under this chapter; (ii) ensure adherence to the daily and annual caps in section 25.01.030, (as expressed in section 25.01.040); (iii) ensure accurate and complete data collection; and (iv) aid enforcement of this chapter.

A failure to have a permit or permit amendment required under (1), (2) or (3) below is a violation of this chapter.

1. **Requirement to possess a valid Sitka Cruise Ship Permit.** A cruise line company whose ship(s) will make one or more port calls in Sitka during a year must first apply for and receive a current, valid "Sitka Cruise Ship Permit" individually for each ship that is not exempt under 25.01.030(A)(7).

2. **Requirement to possess a valid Sitka Port Facility Permit.** A person or entity owning, managing or operating a private or public port facility where a cruise ship or lighter embarks or disembarks passengers or crew must possess a current, valid Sitka Port Facility Permit issued by the department for the current year before allowing a cruise ship or lighter to utilize the facility.

3. **Amendments to permits.** A permit is valid if it is for the current year and all information in the application is up to date. Permittees shall submit to the department an amendment to an application made under (C) or (D) below whenever there is a change in information that was provided in the application. No fee shall be charged for such amendment. The department shall accept and note minor informational changes and deem the overlying permit valid. For changes the Department deems substantial, such as altering the permittee's procedures for data collection and reporting purposes in (C)(2) or (D)(2), as applicable, the Department shall, within ten working days, determine if the changes are acceptable. The Department may issue an amended permit, allow the permittee to revise their proposed amendment, allow the permittee to continue under the original permit, or terminate the permit.

B. **CBS permitting.** The department shall craft a "Sitka Cruise Ship Permit," a "Sitka Port Facility Permit" and application forms for each that are consistent with subsection (A) and that implement the provisions in subsections (C) through (G). The department shall establish processes for reviewing applications and issuing permits. Permits are valid for one "cruise season."

In addition to provisions in following subsections for content of the application forms, the forms shall disclose the processes and the timing for application review and permit issuance. The form shall include a signature block for all named responsible officials or personnel in the application binding their agreement to the terms of the permit and to the requirements of this chapter.

The department shall review an application for a permit upon payment of a fee, which will be set by Assembly resolution. A permit shall be issued within ten working days if (1) the application is complete and bears the required signatures, (2) the department determines the data collection procedures (which the applicant specifies under (C)(2) or (D)(2), as applicable, and its accountability in (C)(3) or (D)(3)), as applicable, are sufficient for purposes of receiving complete and accurate data. If a permit is denied, the department shall notify the applicant and provide its reasons. Within 30 days, the applicant may request reconsideration or amend the application. There is no cost for a request for reconsideration or amendment. The department shall have 10 working days to respond to the request for reconsideration or to the amended application.

In addition to specific permit provisions in subsections (F) and (G), permits shall include: (i) the description in (C)(2) or (D)(2) from the permittee's approved permit application; (ii) requirements and instructions for amending the underlying permit application; and (iii) a copy of this chapter.

C. Applications for Sitka Cruise Ship Permits. A cruise line may apply at any time for the required Sitka Cruise Ship Permit(s) by completing and submitting the department’s application form. Each application shall be for one ship. The application form requires the following information and content, in addition to content specified in the second paragraph of section (B):

1. The name of the cruise line or parent company making the application, the ship’s name and registry numbers, its place of registry and information on how registry documents can be accessed, its lower berth and maximum passenger capacities and the typical and maximum crew sizes during Alaska itineraries;
2. A detailed description of how the ship will accurately count “persons ashore” (separately of passengers and crew, and distinguishing between those continuing, starting or ending an itinerary in Sitka), how it will verify and report its counts, and how it will assure that those procedures will be executed for each port call;
3. The name(s), title and full contact information for the corporate official(s) responsible for the ship’s scheduling, for oversight of the ship’s data collection and reporting, and for receiving any notices of violation or billings from CBS.
4. The ship captain’s and first officer’s names and their aboard-ship contact information.

D. Applications for Sitka Port Facility Permits. A person or business owning, managing or operating a private or public port facility over which people disembark or embark a cruise ship or lighter must apply for a separate Sitka Port Facility Permit for each facility. In addition to the requirements in section (B), a Sitka Port Facility Permit application must contain – as line items or attachments – the following:

1. The name of the person or entity making the application; the name or description of the facility, its location, the minimum number of personnel the applicant will use at the facility in fulfilling the requirements of the permit; the numbers of cruise ships and lighters that can be physically present at the facility at one time; and the maximum number of passengers, and separately crew, that each of the classes of vessels that may use the facility are capable of carrying;
2. A detailed description of how the applicant’s personnel will accurately count and report “persons ashore;”
3. The name(s), full contact information and titles of all personnel responsible for making and reporting the counts described in (2) and those in the applicant’s chain of management who will manage those personnel, oversee the applicant’s duties under the permit, or receive any notices of violation or billings from CBS; and
4. The names and contact information for each person or entity having more than five-percent ownership of the applicant business and their percentage of ownership.

E. Requirements Common to Sitka Cruise Ship Permits and Sitka Port Facility Permits. Among requirements of both Sitka Cruise Ship Permits and Port Facility Permits shall be:

1. Data Collection and Reporting:

- (a) each permittee shall accurately count “persons ashore” for its ship or onto its port facility. The count shall distinguish between passengers and crew, and between those continuing, starting or ending an itinerary in Sitka, and adhere to a means for counting approved in the permit;

(b) both the ship and the port facility shall make their own counts and file their own reports, because these independent counts will be used by the department for data verification;

(c) within 24 hours of the ship's departure, each permittee shall verify its data and report it to the department by means specified in the permit;

(d) the permittee shall submit to the department a descriptive record of any irregularities observed in the disembarkation or embarkation or counting processes if the accuracy of a count of "persons ashore" may be affected,

(e) permittees shall assist the department in resolving any data inconsistencies;

(f) data collection and reporting are required for each port call even if the total cruise visitation in Sitka for the day or year will be within the limitations of section 25.01.030;

2. The permittee shall fulfill all terms of the permit for each port call.

F. Requirements Specific to Sitka Cruise Ship Permits. Among requirements of a Sitka Cruise Ship Permit shall be that:

1. the ship shall have before arrival a valid "Sitka Cruise Ship Permit" issued by the department;

2. prior to arrival, a ship must be pre-authorized in the current update of the CBS "Sitka Cruise Visitation Schedule" for its port call and shall not have more than its scheduled maximum number of "persons ashore";

3. if a ship's arrival is solely due to a maritime or medical emergency unable to be managed by shipboard staff or Coast Guard medivac, the requirements to have a permit and be in the schedule are waived; and

4. the ship, or the cruise line which applied for the ship's permit, shall apply to the department for an amendment to the underlying permit application if improvement in the above data procedures is needed, as determined by the department or permittee, (including under 25.01.060(B)), or be in violation of 25.0.1.080(A) and/or (C).

G. The Sitka Port Facility Permit. Among requirements of a Sitka Port Facility Permit shall be that:

1. A person or entity owning, managing or operating a private or public facility where a cruise ship or lighter embarks or disembarks passengers or crew shall possess a valid annual "Sitka Port Facility Permit" before allowing a cruise ship or lighter to utilize the premises;

2. The facility permittee shall:

(a) apply to the department for an amendment to the underlying permit application if improvement in the above data procedures is needed, as determined by the department or permittee (including under 25.01.060(B)), or be in violation of 25.01.080(A) and/or (C);

(b) if the facility is a cruise ship dock, in performing E(1)(a) coordinate with lighters, if any serving a docked ship, to ensure all persons ashore are counted and none are double counted; and

(c) make daily counts of all buses, vans and taxis leaving the facility, for each of those categories, if the facility is not located between Crescent and Eliason Harbors. A weekly report of the counts shall be submitted to the department before its close of business the following Wednesday.

25.01.060 Management of cruise visitation data

- A. Data the department(s) acquire through this chapter shall be published on the CBS website.
- B. When the department or a permittee finds an error or possible error in reported data, or if irregularities are reported that may have affected a count, the department and permittee(s) shall confer toward ensuring data is correct and complete, and for improving procedures.

25.01.070 Non-interference with seafarers or passengers

Enforcement of this chapter is only against ships, cruise lines and port facilities—not passengers or crew.

A. Seafarer Disembarkation and Embarkation. In compliance with 33 C.F.R. section 104.200 and 33 C.F.R. section 105.237, this chapter bars interference with the disembarkation or embarkation of a cruise ship or lighter by seafarers, vessel personnel, vessel crew, pilots, representatives of seafarers' welfare or labor organizations, or government personnel on assignment.

Ensuring unfettered access for such personnel to both shore and ship is the responsibility of on-duty vessel personnel and/or port facility operators. Permit provisions and CBS personnel shall not interfere with such transit. Persons in the categories listed above are welcome ashore in Sitka even if, on the particular day, their vessel exceeds the number of "persons ashore" authorized in the Sitka Cruise Visitation Schedule or the ship is otherwise barred by operation of this chapter.

B. Cruise ship passengers are welcome ashore in Sitka even if their port call exceeds the number of "persons ashore" authorized for the call in the Sitka Cruise Visitation Schedule.

If a ship is currently barred under 25.01.080(B) because of excessive violations as described there, the ship and any port facility shall not allow passengers to disembark except if the ship is in Sitka because of a maritime or medical emergency, or otherwise to allow individual passengers to seek emergency medical treatment the ship cannot provide.

25.01.080 Enforcement of permits, cruise visitation scheduling and data requirements

A. For failure of a cruise line or port facility to obtain and possess a valid permit required in 25.01.050(A)(1) or (A)(2) before arrival of a cruise ship, the penalty is a \$5,000 fine and disembarkation of passengers by the ship or at the port premises (as applicable) is barred until the permit is obtained. Per 25.01.070(A) there shall be no interference with seafarers and others described above who wish to disembark or embark.

B. For a ship that exceeds its authorized "persons ashore," the fine is \$5,000 for a first offense, and \$10,000 for a second offense. Upon a third such offense the department shall terminate the ship's permit and cancel its port call authorizations in the schedule, and it shall be barred from landing *passengers* in Sitka for one year (except in an emergency as described in section A), and the fine shall be \$15,000. For a cruise line that has multiple ships that visit Sitka, the above count of offenses shall apply collectively for any of those ships, and when a collective third or higher offense occurs, the same enforcement actions shall be taken. For an unscheduled, non-emergency port call the fine is \$15,000, and port calls by that ship shall be barred for one year (with the same emergency exception as in A).

C. The fine for a ship or port facility failing to collect and/or report required accurate data, or under 25.01.050(E)(1)(b) to accurately segregate data, is up to \$5,000 for each offense. The fine for any other kind of permit violation not specified in this section is the same.

D. Minor clerical errors that a permittee corrects shall not be cause for enforcement.

E. A notice of violation (NOV) shall be issued by the department for each offense to this chapter. In issuing a fine or initiating enforcement, the Department may consider: (1) the significant financial gains that may be obtained by violation; (2) the need for immediacy to avoid a repeat violation within the cruise season; and (3) the likelihood of inadvertent or deminimis violations.

F. Interest at the rate of twelve percent per annum shall be charged on the balance of fines not paid within 30 days of billing.

G. Appeal.

1. Any person aggrieved by an action the department takes under this chapter — in issuing, terminating or refusing to issue a permit, or in its application of monetary or non-monetary penalties or interest or costs, or in its cancellation of authorized port calls in the schedule — may request a hearing from the department within thirty days from the date the department mails the notice of the department's action. An application for a hearing shall notify the department of the specific action complained of and the amount of any monetary penalties or interest involved that are contested and the reason it is contested.

2. Upon timely application for a hearing, the department director or a designated hearing officer shall hold a hearing to determine whether a correction is warranted. If the department director elects to refer the matter to an administrative hearing officer, the director or designated hearing officer shall conduct the hearing and prepare findings and conclusions. These findings and conclusions shall be forwarded to the department director, who shall adopt, reject or modify them through issuance of a final order or decision. After receipt of a written decision by the department, a person may appeal to the superior court of the first judicial district in accordance with the Alaska Rules of Appellate Procedure.

H. Inspection warrants. The department is authorized to seek administrative search warrants pursuant to this code for the purpose of investigating actual or suspected violations of this chapter.