

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2024-__

BALLOT PROPOSITION OF NOVEMBER 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. After considering and balancing the interests of the public, the purpose of this ordinance is to enact a new title in the Sitka General Code that restores balance by limiting cruise ship visitation.
4. ENACTMENT. NOW, THEREFORE, BE IT ENACTED by action of the electorate of the City and Borough of Sitka, that Title 25 is added to the Sitka General Code, as follows:

TITLE 25 — TOURISM

Sections:

Chapter I. General Cruise Ship Limitation Provisions

- 25.01.010 Purpose and Intent
- 25.01.020 Definitions.
- 25.01.030 Management of cruise visitation data
- 25.01.040 Non-interference with passengers
- 25.01.050 Port call special circumstances
- 25.01.060 Violations and Enforcement
- 25.01.070 Appeals
- 25.01.080 Assembly transition authority.

Chapter II. Large Cruise Ship Provisions

- 25.02.010 Limits on large cruise ship visitation
- 25.02.020 Large cruise ship scheduling and permitting
- 25.02.030 Large cruise ship scheduling conference
- 25.02.032 Large cruise ship free market scheduling
- 25.02.034. Alternate large cruise ship scheduling methods

Chapter III. Small Cruise Ship Provisions

- 25.03.010 Small cruise ship scheduling and permitting

Chapter I. General Cruise Ship Provisions

25.01.010 Purpose and Intent

This title limits large cruise ship visitation starting with the 2026 cruise season to: (1) improve safety, reduce nuisances, and promote 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.

This title manages large cruise ship visitation by limiting the number of “passengers ashore” at daily and annual scales, the number of days per week cruise ships can call, and the length of the cruise season. To implement those limits, this title requires each large cruise ship to have a valid permit to disembark passengers. It establishes a system for scheduling the maximum passengers ashore from each large cruise ship on each day of the cruise season to avoid exceeding the limits. The ordinance provides for enforcement, principally through fines. Fines will only be imposed on cruise ship owners or operators, not passengers. Cruise ships are required to report visitation data.

This title also manages small cruise ship visitation by exempting them from all of the limits but requiring them to obtain permits. Small cruise ship passenger data is extremely helpful, so the community can better provide services and manage the total impacts of cruise ship visitation.

25.01.020 Definitions

- A. “Administrator” means the City and Borough of Sitka municipal administrator, or designee(s), who administers, including enforcement of, this title.
- B. “CBS” means the government of the City and Borough of Sitka.
- C. “Cruise season” means May 1 through September 30.
- D. “Cruise ship” means a passenger vessel that (i) has more than twelve berths or other overnight accommodations, (ii) is used for the business of transporting paying or charter passengers on multi-day trips for leisure, adventure, or other recreational pursuits and (iii) is not an Alaska Marine Highway ferry. The term cruise ship includes small cruise ships and large cruise ships.
- E. “Cruise Ship Operator” means the owner, master, or person in charge of the cruise ship or any other person authorized by the owner or agent of the cruise ship to act on behalf of the owner or agent with respect to the cruise ship, including being responsible for passengers ashore.
- F. “Large cruise ship” means a cruise ship with maximum overnight accommodations for 250 passengers or more.
- G. “Lighter” means a vessel that transfers people between a cruise ship and a port facility, including tenders, tour boats, charter boats, any other boats, or aircraft.
- H. “Passengers ashore” depending on context, means (1) the maximum cumulative number of passengers a cruise ship operator requests to be permitted to disembark for a port call, (2) the actual cumulative number of passengers who disembark from a cruise ship during a port call, or (3) the number of actual passengers who disembark cumulatively from all cruise ships during a specific period of time (e.g. a day or year). Passenger does not include those persons covered by 33 C.F.R. Subchapter H § 105.200 and 33 C.F.R. § 105.237, namely, "vessel personnel," "vessel crew," "seafarers assigned to a vessel," "pilots," and "representatives of seafarers' welfare and labor organizations" (collectively, "Crew"),
- I. “Port call” means a stop in Sitka by a cruise ship for passengers to go ashore.
- J. “Port call allocation” means a port call in the Municipal Cruise Schedule, showing the cruise ship’s name and that port call’s maximum allowed passengers ashore.
- K. “Schedule” means the city and borough’s Municipal Cruise Schedule.
- L. “Small cruise ship” means a cruise ship with maximum overnight accommodations of less than 250 passengers.

M. "Week" means a period of Sunday through Saturday.

25.01.030 Management of cruise visitation data

- A. The administrator should make the schedule available on a city and borough website.
- B. Nothing in this title is intended to compel the production of personal information about specific passengers. Records (such as but not limited to permit applications, permits, and passenger ashore counts) acquired by the city and borough pursuant to this title and subject to disclosure pursuant to AS 40.25.120 should be published on a city and borough website.

25.01.040 Non-interference with passengers

- A. This title shall not be enforced upon individual passengers.
- B. The city and borough may not interfere with passengers that disembark in excess of the permitted passenger ashore amount. However, nothing in this subsection restricts the city and borough's ability to take enforcement action or limits the Cruise Ship Operator's liability.

25.01.050 Port call special circumstances

A cruise ship without a permit may make an emergency port call as follows and disembark passengers:

- (i) if the cruise ship's captain or a government official determines an emergency port call is necessary;
- (ii) if any person needs emergency medical treatment; or
- (iii) if the administrator determines special circumstances warrant deviation from the requirements and limits of this title and if the disembarkation of passengers would not substantially harm the public health, safety, and welfare of the community.

25.01.060 Violations and Enforcement

- A. Penalties for Unauthorized Operations.
 - 1. No permit. If a cruise ship executes a port call without a permit and passengers disembark, unless authorized by SGC 25.01.050, the cruise ship's owner, Cruise Ship Operator, or other responsible person or entity shall be fined \$15,000. No port call may be scheduled for that cruise ship within a period of one year after the unauthorized port call.
 - 2. Exceed permitted passengers ashore. If a large cruise ship exceeds its permitted passengers ashore during a port call, the Cruise Ship Operator or other responsible person or entity shall be fined: \$5,000 for a first offense, \$10,000 for a second offense within one year, and \$15,000 for a third offense within one year. Upon a third offense within one year, the cruise ship's Disembarkation Permit shall be revoked, its remaining scheduled port calls shall be deleted, and no port call may be scheduled for that cruise ship or any cruise ship(s) with the same Cruise Ship Operator within a period of one year after the third offense.
 - 3. General permit violations. If a cruise ship violates a Disembarkation Permit condition other than the permitted passengers ashore condition, the cruise ship's owner, Cruise Ship Operator, or other responsible person or entity shall be fined \$5,000 for each violation. Upon a third offense within one year, the cruise ship's Disembarkation Permit shall be revoked, its remaining scheduled port calls shall be deleted, and no port call may be scheduled for that cruise ship within a period of one year after the third offense.
- B. Minor clerical errors that a permittee corrects shall not be cause for enforcement.

- C. Interest. Interest at the rate of twelve percent per annum shall be charged on the balance of fines not paid within 30 days of billing.
- D. Civil fines. The fines in this section are considered civil fines, not minor offenses or criminal penalties.
- E. Inspection warrants. The administrator is authorized to seek administrative search warrants pursuant to this code for the purpose of investigating actual or suspected violations of this title.
- F. Non-exclusive. The city and borough or any aggrieved person may bring a civil action to enjoin any violation of this title and to obtain damages from any injury the plaintiff suffered as a result of the violation. An action for injunction under this section may be brought notwithstanding the availability of any other remedy. Upon application for injunctive relief and a finding of an existing or threatened violation, the superior court shall enjoin the violation.

25.01.070 Appeals

- A. Intent. The provisions of this section are intended to create a complete and abbreviated administrative appeal process to balance the interests of any person adversely affected by an administrator decision while considering the limited duration of any cruise season, the need to have certainty in cruise ship scheduling, and the potential harm caused by exceeding the limits of SGC 25.02.010.
- B. Commencement of action.
 - 1. A decision of the administrator is final unless a timely appeal is filed with the municipal clerk.
 - 2. An applicant, any member of the assembly, and any person adversely affected by a final administrator decision under this title—such as determining an application is complete or incomplete; issuing, amending, or revoking a Passenger Disembarkation Permit; or imposing a fine—may appeal the decision. A notice of appeal must be filed within ten days from the date of publication, electronic delivery, or postmark of the final administrator decision.
 - 3. The notice of appeal must contain a copy of the administrator’s decision, a concise statement of the legal and factual errors in the decision that form the basis of the appeal, and state the relief sought.
- C. Stay of decision or enforcement. The filing of a notice of appeal does not stay the action complained of or any enforcement proceedings. A person aggrieved by a final decision of the administrator may request the administrator’s decision be stayed by filing a written argument of no more than five pages with the municipal clerk. Within a reasonable time, the administrator may file a five-page written response. The assembly, or designee, may stay enforcement only if the moving party can demonstrate a likelihood of success on the merits of the appeal.
- D. Notice of appeal hearing and preparation of record.
 - 1. The municipal clerk shall schedule the appeal hearing, mail notice of the appeal hearing, and prepare the record.
 - 2. All persons filing an appeal, intervening, and the administrator should receive notice of the appeal hearing.

3. The record should include the information the administrator used to make its final decision, the administrator's final decision, and the notice of appeal. Any party may also file a written argument, not to exceed twenty pages in length.
- E. Appeal hearing.
1. The public hearing on the appeal shall occur at the first available regular assembly meeting that occurs at least 10 days after the filing of the appeal unless the assembly or any party requests it be heard at the next following regular meeting.
 2. Unless the assembly elects to review the decision on the record as supplemented by argument at the hearing, the assembly reviews an appeal de novo (a full rehearing) with all parties presenting whatever evidence is relevant and with an opportunity to make argument.
 3. Every decision of the assembly shall be based upon adopted findings and conclusions, which should be reasonably specific to provide the applicant, community and where appropriate, reviewing authorities, with a clear and precise understanding of the reason for the decision. The assembly may refer the matter back to the administrator to develop additional findings and conclusions.
- F. Scope of appellate review. The assembly may exercise its independent judgment on legal issues raised by the parties. Legal issues are those matters that relate to the interpretation or construction of ordinances or other provisions of law.
- G. Judicial review. Any person aggrieved by a final decision of the assembly under this title may appeal that decision to the superior court in accordance with the Alaska Rules of Appellate Procedure. An appeal to the superior court shall be heard solely on the record created before the assembly.

25.01.080 Assembly transition authority.

- A. Effect of initiative. Consistent with SGC 2.80.050(A), within the first year after adoption of the initiative by the voters, the assembly may not modify SGC 25.02.010 or expand the duration of cruise season in SGC 25.01.020, which were the effect of the successful initiative; The assembly may modify any other provision of this title within the first year to effectuate the purpose and intent of the initiative, including, but not limited to, shortening the duration of cruise season and modifying the application timing to restrict cruise ship visitation during 2026.
- B. Sunset clause. This section and SGC 25.02.020(D)(1)(b) sunset 366 days after adoption of the initiative by the voters and at which time they are automatically repealed.

Chapter II. Large Cruise Ship Provisions

25.02.010 Limits on large cruise ship visitation

- A. The following limits apply to large cruise ship visitation every cruise season starting in 2026:
 1. The sum of scheduled passengers ashore shall not exceed 300,000 annually; and
 2. The sum of scheduled passengers ashore shall not exceed 4,500 on any day; and
 3. Cruise ship port calls shall not be scheduled in Sitka on more than six days per week;
 - a. By resolution, the Assembly may specify the day(s) of the week with no large cruise ship port calls, which can be up to two days a week.

4. Cruise ship port calls shall not be scheduled outside of the cruise season.

25.02.020 Large cruise ship scheduling and permitting

- A. Introduction. This section regulates large cruise ship visitation to conform to limits in SGC 25.02.010 through development and maintenance of an annual Municipal Cruise Ship Schedule. A permit system ensures the collection of passengers ashore data and makes the schedule enforceable. Information needed for scheduling and permitting is collected in a single application per cruise ship. A default method for developing the schedule is specified, but the assembly has discretion to choose an alternative method. Not all requested cruise ship port calls are expected to fit into the schedule.
- B. Permit required. No person, including a Cruise Ship Operator, may allow or facilitate the disembarkation of passengers from a large cruise ship in Sitka without the large cruise ship first having obtained a Disembarkation Permit. This permit requirement only applies to large cruise ships and does not apply to shore-based facilities, like the Cruise Terminal, or lightering vessels.
- C. Large cruise ship permit and scheduling application contents.
 - 1. A Cruise Ship Operator must submit an application (in the format determined by the city and borough) for each large cruise ship it seeks to schedule for a port call in Sitka during a cruise season, with the following permit and schedule related information:
 - a. The name of the large cruise ship, cruise line and parent company, if any; contact information of the applicant and the representative filing the application; names, contact information and notarized authorization from the Cruise Ship Operator for all personnel who act for the applicant or Cruise Ship Operator.
 - b. The name(s), title(s) and full contact information for the owner/operator and corporate official(s) responsible for:
 - i. oversight of the large cruise ship's data collection and reporting, and
 - ii. for receiving any notices of violation or billings from CBS, and
 - iii. for requesting any changes to the large cruise ship's scheduled port calls.
 - c. Detailed descriptions of how the Cruise Ship Operator will accurately count passengers ashore and how it will verify and report those counts, and how it will ensure that these procedures will be executed for each port call;
 - d. The large cruise ship's lower berth and maximum passenger capacities, and its typical and maximum crew sizes during an Alaska cruise;
 - e. For each requested port call, the call date(s) and the maximum passengers ashore;
 - f. If applicable, the names and contact information for the personnel who will act for the applicant at the conference pursuant to SGC 25.02.030;
 - g. An acknowledgement that the person submitting the application is the Cruise Ship Operator and the person will ensure the large cruise ship will abide by all laws of the city and borough, including permit conditions unless a permit condition is invalidated on appeal; and

2. The cruise ship shall not make a port call that is not on the permit;
 3. The Cruise Ship Operator must accurately count the cruise ship's port call total passengers ashore for the day, including lighters, and not exceed the allocated amount in the permit;
 4. Within fourteen calendar days of the cruise ship's departure, the Cruise Ship Operator must submit to the administrator a record of the total passengers ashore and any irregularities observed in the disembarkation counting processes;
 5. Upon request, the Cruise Ship Operator agrees to provide the cruise ship's records, as they are kept in the usual course of business, that indicates the number of passengers ashore during any port call; and
 6. A violation of the Disembarkation Permit may result in a fine, penalties, actions, and orders, including revocation of the permit, which could cancel any subsequent scheduled port calls;
- I. Later schedule modifications
1. After publication of the schedule, a Cruise Ship Operator may apply to amend its Disembarkation Permit or seek a Disembarkation Permit for a large cruise ship not on the schedule. Modification applications must include information specified in SGC 25.02.020(C) and, if set under SGC 25.020(D)(5), an application fee. The administrator should review applications in the order they were received. The Administrator may issue a Disembarkation Permit if there is sufficient available capacity under the limits imposed by SGC 25.02.010 and if consistent with this title. The administrator may reject any schedule modification application if it is made within an unreasonable time of the requested port call, which is presumed to be two business days. The assembly may specify a longer application review period is necessary when in the best interest of the community.
 2. A Cruise Ship Operator with a permitted port call must notify the administrator as soon as a decision is made to cancel a scheduled port call.
 3. Whenever the schedule is updated, the administrator should post the revised version on the webpage.

25.02.030 Large cruise ship scheduling conference

- A. An initial schedule may be constructed in a conference convened by the administrator as soon possible after the close of the application window in SGC 25.02.020 (D) on a date determined by the administrator. Any cruise ship operator seeking a scheduled port call during the relevant cruise season must participate in the conference, in person, and/or by phone or videoconference.
- B. To participate in the scheduling conference, a complete Disembarkation Permit application must have been filed timely.
- C. The following procedures govern the cruise ship scheduling conference:
 1. Queuing. The administrator shall randomly draw names of applicants to determine the initial order in which they will take turns in the port call allocation process. In each pass, each applicant may, in turn, request one applied-for port call. The administrator shall make the allocation in the schedule if there is sufficient available capacity for it under the limits imposed by SGC 25.02.010. After each pass, the first applicant moves to the end of the queue to line up for the next pass.

2. Alternative date. If the allocation cannot be made because the request conflicts with a limit imposed by SGC 25.02.010, the applicant may request an alternative port call date for the cruise ship, which should be allocated if a SGC 25.02.010 limit is not exceeded.
3. Optimization. To maximize the daily passenger ashore capacity while still complying with the other limits in SGC 25.02.010, the administrator may continue the scheduling conference. Optimization requests will be taken up using the queuing methods provided in subsection (C)(1). Each request may shift a cruise ship's port call to a different date and may include scheduling a different cruise ship of that cruise line or another line for the abandoned date, provided the SGC 25.02.010 limits will not be exceeded.
4. Conference closing. The conference can close when any of the following occur (1) the SGC 25.02.010 annual limit is reached, (2) no more port calls can fit within the SGC 25.02.010 daily limit, (3) all applications are satisfied, or (4) until the schedule optimization in subsection (C)(3) is completed. The initial schedule is final when the conference concludes. Large cruise ship additions and changes to the schedule can later be made only through the processes in SGC 25.02.020(l).

25.02.032 Large cruise ship free market scheduling

- A. The assembly by resolution, or the administrator, may choose to allow a schedule to be prepared by the Alaska cruise ship industry that complies with the SGC 25.02.010 limits.

The initial schedule is accepted as final upon being verified by the administrator as complying with SGC 25.02.010.

- B. Within thirty days of the application deadline for 2026, the schedule must be produced.

25.02.034. Alternate large cruise ship scheduling methods

By resolution, the assembly may choose any other scheduling method it deems reasonable that complies with the limits of SGC 25.02.010 and achieves the purpose and intent of this title. Alternative scheduling methods may include, but are not limited to: other types of lotteries, sealed bid, and first-in-time scheduling methods. The City must administer this process.

Chapter III. Small Cruise Ship Provisions

25.03.010 Small cruise ship scheduling and permitting

- A. Introduction. This section regulates small cruise ship visitation. Small cruise ship visitation is exempt from the limits in SGC 25.02.010, but a small cruise ship is required to obtain a Disembarkation Permit.
- B. Permit required. No person, including a Cruise Ship Operator, may allow or facilitate the disembarkation of passengers from a small cruise ship in Sitka without the small cruise ship first having obtained a Disembarkation Permit. This permit requirement only applies to small cruise ships and does not apply to shore-based facilities, like the Cruise Terminal, or lightering vessels.
- C. Small cruise ship permit and scheduling application contents.
 1. A Cruise Ship Operator must submit an application (in the format determined by the city and borough) for each small cruise ship it seeks to schedule for a port call in Sitka during a cruise season, with the following permit and schedule related information:
 - a. The name of the small cruise ship, cruise line and parent company, if any; and contact information of the applicant and the representative filing the application; Names, contact

information and notarized authorization from the Cruise Ship Operator for all personnel who act for the applicant or Cruise Ship Operator.

- b. The name(s), title(s) and full contact information for the owner/operator and corporate official(s) responsible for:
 - i. oversight of the small cruise ship's data collection and reporting, and
 - ii. for receiving any notices of violation or billings from CBS, and
 - iii. for requesting any changes to the small cruise ship's scheduled port calls.
 - c. Detailed descriptions of how the Cruise Ship Operator will accurately count passengers ashore and how it will verify and report those counts, and how it will ensure that these procedures will be executed for each port call;
 - d. The small cruise ship's lower berth and maximum overnight passenger capacities, and its typical and maximum crew sizes during an Alaska cruise;
 - e. For each requested port call, the call dates and the maximum passengers ashore;
 - f. An acknowledgement that the person submitting the application is the Cruise Ship Operator and the person will ensure the small cruise ship will abide by all laws of the city and borough, including permit conditions unless a permit condition is invalidated on appeal; and
 - g. Any other information required by the city and borough to facilitate the purposes and intent of this title.
2. An application fee, if required by the Assembly, must be submitted with the application. The fee is the amount covering the estimated actual cost for the city and borough to administer the permit process for a cruise season. The Assembly may set one application fee for an original application and another fee to modify the application. The Assembly may alter the application fee(s) as frequently as once per year.

D. Application submission.

1. Applications for a small cruise ship Disembarkation Permit must be submitted at least two business days in advance of the requested port call. Cruise Ship Operators are encouraged to submit applications at least six months prior to the requested port calls, but not more than eighteen months before the start of the cruise season.
 - a. The assembly, by resolution, may specify an application window for a specific cruise season.
2. A Cruise Ship Operator with multiple cruise ships must submit one original permit application for every cruise ship per cruise season.
3. Only one original application per cruise ship will be considered, but it may be supplemented or amended.
4. An application that requests a port call for more passengers ashore than the maximum number of overnight passengers it can accommodate will be denied.

E. Small cruise ship application processing. Applications will be reviewed for completeness and only complete applications will be eligible for a Disembarkation Permit. The administrator shall reject an

incomplete application and notify the applicant of the reason(s). The assembly may prescribe laws for an applicant to cure an incomplete application.

- F. Permit issuance. The administrator must issue one Disembarkation Permit to each small cruise ship consistent with this title.
- G. General Disembarkation Permit conditions. The Disembarkation Permit includes the following general conditions and the permitted port calls. The administrator may add any additional specific conditions that the administrator believes are reasonable and necessary to achieve the purpose and intent of this title or to protect the public's health, safety, and welfare.
 - 1. A Disembarkation Permit, including any scheduled port call or port call allocation, is non-transferable;
 - 2. The cruise ship shall not make a port call that is not on the permit;
 - 3. The Cruise Ship Operator must accurately count the cruise ship's port call total passengers ashore for the day, including lighters, and not exceed the allocated amount in the permit;
 - 4. Within fourteen calendar days of the cruise ship's departure, the Cruise Ship Operator must submit to the administrator a record of the total passengers ashore and any irregularities observed in the disembarkation counting processes;
 - 5. Upon request, the Cruise Ship Operator agrees to provide the cruise ship's records, as they are kept in the usual course of business, that indicates the number of passengers ashore during any port call; and
 - 6. A violation of the Disembarkation Permit may result in a fine, penalties, actions, and orders, including revocation of the permit, which could cancel any subsequent scheduled port calls;
- H. Permit modifications and additions.
 - 1. A Cruise Ship Operator may apply to amend its Disembarkation Permit. Applications must include information specified in SGC 25.03.010(C) and, if set under SGC 25.03.010(C)(2), an application fee. The administrator should review applications in the order they were received. The administrator must issue a Disembarkation Permit if consistent with this title. The administrator may reject any application if it is made within an unreasonable time of the requested port call, which is presumed to be two business days. The assembly may specify a longer application review period is necessary when in the best interest of the community.
 - 2. A Cruise Ship Operator with a permitted port call must notify the administrator as soon as a decision is made to cancel a scheduled port call.
- I. Schedule. The administrator should post schedule revisions on the webpage.