

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2006-38

-AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA AMENDING SITKA GENERAL CODE SECTION 4.09.010 ENTITLED "LEVY OF SALES TAX" TO IMPOSE A FLAT SALES TAX RATE TO BE PAID BY FISHING CHARTER CUSTOMERS ON THE VALUE OF PACKAGED FISH AND/OR SEAFOOD CAUGHT OR TAKEN BY FISHING CHARTER CUSTOMERS.

1. **CLASIFICATION.** This ordinance is of a permanent nature and is intended to be a part of the Sitka General Code of the City and Borough of Sitka, Alaska upon election certification.

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.** Sitka General Code Section 4.09.030, entitled "Presumption of taxability—sales price and purchase price," recognizes that "in a sale which the amount of money paid does not represent the value of the property or service purchased, the sales tax must be imposed on the value of property or service purchased." Under the current Sitka General Code sales tax provisions, the value of the packaged fish and/or seafood obtained by fish charter customers as part of a charter has not been taxed. Fish charter customers are charged the same charter fee regardless if they obtain fish and/or seafood as part of a charter, and is then packaged for the customer. The purpose of this ordinance is to impose a sales tax on the value of the packaged fish and/or seafood caught or taken and retained by fish charter customers as a result of their charter.

The proposed amendment to Sitka General Code Section 4.09.010 would impose a flat rate charge of \$10 per fish box as a reasonable sales tax levy rate for the value of the packaged fish and/or seafood of fishing charter customers. This flat rate levy and the amount of the tax takes into consideration that each fish box may contain a varied amount, type, and size of fish and/or seafood which makes it difficult to precisely calculate its value. Additionally, since the fish and/or seafood has been caught and/or taken by the charter customer, the value of the packaged fish and/or seafood cannot be directly correlated with retail sales prices of fish and/or seafood. Thus, the City and Borough of Sitka, Alaska finds that the flat rate charge of \$10 per fish box is a reasonable sales tax rate.

Additionally, the sales tax collected from this levy on fish boxes shall be deposited by the finance director in the following funds and in the following rations:

- a. 20% in the harbor fund;
- b. 30% in the Sitka Permanent Fund;
- c. 20% in a fisheries enhancement fund, available to be used for any fisheries enhancement proposal upon approval of the proposal by the Assembly; and
- d. 30% in the general fund.

4. **ENACTMENT.** NOW, THEREFORE, BE IT ENACTED By the City and Borough of Sitka that Sitka General Code Section 4.09.010, entitled "Levy of Sales Tax," is amended by adding a new subsection to read as follows (new language underlined, deleted language stricken):

4.09.010 Levy of sales tax.


- A. There is levied a consumer's sales tax on sales, rents, and leases made in the City and Borough of Sitka. This tax applies to sales, rentals, and leases of tangible personal property; sales of services sold within the City and Borough of Sitka; sales of services performed wholly or partially within the City and Borough of Sitka when the provisions of such services originates or terminates within the City and Borough of Sitka; and rentals and leases of real property located with the City and Borough of Sitka. Notwithstanding any provision of law, air or sea charter services, provided a person or entity in the business of providing such charter services, are exempt from sales tax by the City and Borough of Sitka if the charter does not commence and end within the City and Borough of Sitka.
- B. The rate of levy of the sales tax levied under subsection A of this section is five percent on sales made during the months of October, November, December, January, February, and March. Effective April 1, 2004, the rate of levy of the sales tax levied under subsection A of this section is six percent on sales made during the months of April, May, June, July, August, and September. The rate of levy of the sales tax shall become five percent all year around three days after the Administrator certifies in writing to the Assembly that either (a) any and all bonds issued pursuant to the ratification by the voters on March 18, 2003, of propositions set out in Ordinances Nos. 02-1707 and 02-1712 are entirely paid off or (b) the seasonal sales tax increase of one percentage point on sales made during the months of April, May, June, July, August, and September described in the previous sentence has generated (or-based on historical projections-will generate in the next succeeding quarter) sufficient revenues to pay off any and all bonds issued pursuant to the ratification by the voters on March 18, 2003, of propositions set out in Ordinances Nos. 02-1707 and 02-1712, whether or not such bonds have been paid off.

- C. A flat rate of \$10 per fish box shall be levied on the packaged fish and/or seafood caught or taken and retained by fish charter customers as part of the fish charter. This tax shall be paid by the fish charter customer,
- D. collected by whoever packages the fish and/or seafood caught or taken by the fish charter customer, and is in addition to any sales tax paid based on the cost of the charter. This tax is effective January 1, 2007. For purposes of this subsection, a fish box means any packaging by a fish charter operator or processor, of fish and/or seafood caught or taken as part of the charter by a fish charter customer. The sales tax collected from this levy on fish boxes shall be deposited by the finance director in the following funds in the following ratios:
1. 20% in the harbor fund;
 2. 30% in the Sitka Permanent Fund;
 3. 20% in a fisheries enhancement fund, available to be used for any fisheries enhancement proposal upon approval of the proposal by the Assembly; and
 4. 30% in the general fund.
- E. Except as provided in subsection C above, all moneys accumulated under the terms of this chapter shall be deposited by the Finance Director in the general fund of the City and Borough of Sitka and shall be used for the general operating expenses of the City and Borough of Sitka in such a proportion as deemed advisable from time to time by the Assembly.

5. **EFFECTIVE DATE.** This ordinance shall become effective immediately on certification of the election results that show a majority of qualified voters approved the enactment.


PASSED BY A MAJORITY VOTE OF THE ELECTORATE AT A REGULAR MUNICIPAL ELECTION HELD OCTOBER 3, 2006.

**Results: YES = 2,011
NO = 1,000**



Marko Dapcevich, Mayor

ATTEST:


Colleen Pellett, MMC
Municipal Clerk