Sitka Tribe of Alaska
Ordinance Governing Take of Marine Mammals
(02.06)
SITKA TRIBE OF ALASKA

ORDINANCE 95-10
GOVERNING THE TAKE OF MARINE MAMMALS

WHEREAS, the Sitka Tribe of Alaska wishes to conserve and protect marine mammal species; and

WHEREAS, the Sitka Tribe of Alaska's traditional territory reflects the lands and waters historically and presently the stewardship responsibility of the Sheet'ka Kwaan and as such are composed of the western side of Baranof Island, the greater reaches of Peril Strait, southwestern portions of Chicagof Island and the myriad of islands as well as the waters between these locations; and

WHEREAS, the Sitka Tribe of Alaska wishes to ensure the regulation of marine mammals by its citizens is consistent with the Tribe's customs and traditions; and

WHEREAS, the Sitka Tribe of Alaska believes that this ordinance will best accomplish the goals set forth above; and

WHEREAS, the Sitka Tribe of Alaska exercises its inherent sovereign authority to establish regulations governing the take of marine mammals and other resources from time immemorial through customs and traditions passed from generation to generation;

NOW, THEREFORE BE IT RESOLVED THAT the Sitka Tribe of Alaska DOES HEREBY ORDAIN AND ENACT THE FOLLOWING TRIBAL ORDINANCE.

SECTION 1 FINDINGS

The Sitka Tribe of Alaska finds that:

(a) The citizens of the Sitka Tribe of Alaska have forever relied upon marine mammals for nutritional and other domestic needs and continue to rely upon such resources today, as they will for generations to come; and

(b) The social organization and Native culture of the Sitka Tribe of Alaska depend heavily upon the taking and use of traditional marine resources; and

(c) Survival of both the marine mammal populations and the citizens of the Sitka Tribe of Alaska have depended upon community cooperation and sharing in the harvest of marine mammals; and

(d) The marine resources relied upon by the citizens of the Sitka Tribe of Alaska have survived the ages due to careful management and prudent use by the Alaska Native residents of Sitka; and

(e) The citizens of the Sitka Tribe of Alaska have regulated the take of marine mammals and other resources from time immemorial through customs and traditions passed from generation to generation; and

(f) These customs and traditions require the take of marine mammals to done in a non-wasteful manner; and

(g) Such customs and traditions continue to guide the citizens of the Sitka Tribe of Alaska as they will for generations yet to come.

SECTION 2 PURPOSES

The Sitka Tribe of Alaska shall:

(a) Document the use of marine mammals in the customary and traditional territory of Sitka Tribe;

(b) Develop and implement a formal management system governing the harvest of marine mammals by Alaska Natives within the customary and traditional territory of the Sitka Tribe;

(c) Establish and enforce local tribal laws and regulations that govern the harvest of marine mammals within the customary and traditional territory of Sitka Tribe;

(d) Ensure that the harvest guidelines preserve the marine mammal stocks for customary and traditional uses by future generations of the Sitka Tribe;

(e) Cooperate with other governments to ensure that the Sitka Tribe will continue to manage marine mammals in its customary and traditional territory;

(f) Ensure that all concerned parties are made aware of the local tribal laws governing the harvest of marine mammals in the customary and traditional territory of the Sitka Tribe;

(g) Cooperate with all concerned parties whose resource management philosophy is consistent with the customs and traditions of Sitka Tribe.

SECTION 3 DEFINITIONS

(a) The term "harvest monitors" means the persons appointed by the Sitka Tribe of Alaska to carry out functions set forth in Section 6 (g) of this Ordinance. Harvest monitors shall report directly to the Sitka Marine Mammal Commission.

(b) The term "marine mammal" means any mammal which is morphologically and biologically adapted to the marine environment including, but not limited to, sea otters, harbor seals, and sea lions.

(c) The term "marine mammal product" means any item which consists, or is composed in whole of part, of any marine mammal.

(d) The term "take" means to harvest or kill any marine mammal.

(e) The term "tribal officer" means the person appointed by the Sitka Tribe Council to carry out the duties set forth in Section 8 of this Ordinance.

(f) The term "Alaska Native" means a person who has at least ¼ Alaska Native blood.

(g) The term "customary and traditional territory of the Sitka Tribe of Alaska" means the areas including the greater part of Peril Straits, the Southern and Southwestern sides of Chichagof, the Northern and Western sides of Baranof Islands, and the myriad of adjacent islands.

(h) The term "general membership of the Sitka Marine Mammal Commission" means all Alaska Natives (Aleuts, Eskimos, and Indians) who reside within the customary and traditional territory of the Sitka Tribe of Alaska.

SECTION 4 SCOPE

(a) This Ordinance governs any take of marine mammals by any Alaska Native within the customary and traditional territory of the Sitka Tribe of Alaska.

(b) A Tribe or Native Village, other than the Sitka Tribe of Alaska, (02.06) may, out of necessity and/or geographic closeness wish to become party to this ordinance. This may be done by the Amendment procedures in Section 11. All areas within the customary and traditional territory of any added Tribe or Native Village will automatically become part of this Ordinance and its citizens shall be considered as part of the "general membership."

SECTION 5 TAKE OF MARINE MAMMALS

(a) Marine Mammals may be taken within the customary and traditional territory of the Sitka Tribe provided that the person taking the marine mammal:

1. that person is an Alaskan Native residing on the coast of Alaska;

2. takes no more than is needed for customary and traditional purposes; and

3. Salvages all parts of the animal which custom and tradition require (unless the animal is found to be diseased, decomposed or otherwise not suitable for human consumption); and

4. does not otherwise take marine mammals in a wasteful manner; and

5. does not otherwise violate the Marine Mammal Protection Act of 1972 as amended; and

6. abides by this Ordinance and regulations as adopted by the Sitka Marine Mammal Commission.

SECTION 6 SITKA MARINE MAMMAL COMMISSION

(a) There shall be established a Sitka Marine Mammal Commission composed of 9 (nine) members which shall represent a diverse cross-section of the general membership. The commissioners shall be nominated and elected from and by the general membership of the Sitka Marine Mammal Commission for three year terms. The terms of the commissioners shall for three years and rotate with three years and rotate with three seats open each year.

(b) The Commission shall meet at least once every three months. Depending on the circumstances, the Commission can choose to meet more often than the minimum. The Commission meetings shall be open to the general membership of the Sitka Marine Mammal Commission. The Commission shall also hold a well-publicized annual meeting during the month of October.

(c) All Commission decisions shall be effective by consensus of the Commission. Consensus shall be defined by the Commission.

(d) The Commission shall appoint a Chair and Vice Chair from the Commission members. The Commission shall also appoint a Secretary and Treasurer from the Commission members or appoint one Commission member to the position of Secretary/Treasurer.

(e) Regulations adopted by the Commission may not be more lenient than the provisions of Section 5.

(f) The Commission shall use the following procedures:

1. The Commission shall develop proposed regulations, which shall then be posted for at least 30 days at the main Sitka Tribal government offices. These proposed regulations shall also be posted for at least 30 days at City Post Offices and Office Buildings and the Alaska Department of Fish & Game, and the Fish & Wildlife Protection Office. During this time, notice of the proposed regulations shall be published at least three times in a local newspaper.

2. No less than 30 days after the posting of the proposed regulations the Commission shall hold a public meeting for comments. After the public meetings the Commission shall hold at least one meeting at which the Commission will consider comments made by the public and adopt final regulations, which shall then be posted and kept on file for public inspection at the main Sitka Tribal government. These final regulations shall also be posted at City Post Offices and Office Buildings, and the Fish & Wildlife Protection Office. During this time, notice of the final regulations shall be published at least three times as legal notices in a local newspaper.

(g) The Sitka Marine Mammal Commission shall appoint at least one qualified Alaska Native resident of Sitka to the position of harvest monitor. The harvest monitor shall monitor the take of marine mammals and shall report to and be responsible to the Commission. The harvest monitor will keep records of the numbers of each species of marine mammals taken in the customary and traditional territory of the Sitka Tribe of Alaska and shall record other data as appropriate.

(h) The information gathered by the harvest monitor and the information recorded under the permit system is to be used by the Commission for making management decisions to prevent a marine mammal species from becoming deleted.

(i) The Commission shall have authority to enact emergency regulations as are necessary to prevent a species from becoming depleted.

SECTION 7 SANCTIONS

(a) Violations of any provisions of this Ordinance or regulations of the Sitka Marine Mammal Commission shall be referred to the Sitka Tribal Court. Possible sanctions include, but are not limited to printing the offender's name in newspapers, newsletters, and other media, fines, and other penalties, loss of hunting privileges, and confiscation of boats, rifles, and animals or pelts.

(b) Tribal Officers shall cooperate with federal or state officials and may notify the cognizant agencies of non-Natives or Natives who may have violated any provision of the Marine Mammal Protection Act (16 U.S.C. 1361 et.seq.) or any applicable law.

SECTION 8 ENFORCEMENT

(a) The Sitka Marine Mammal Commission shall seek to appoint a qualified Alaska Native resident to the position of Tribal Officer. The Tribal Officer shall enforce this Ordinance and regulations of the Commission. Violations shall be reported to the Sitka Tribal Court.

(b) All hunters within the customary and traditional territory of the Sitka Tribe of Alaska and the general membership of the Sitka Mammal Commission have the responsibility to be on watch to ensure compliance with this Ordinance, and the Commission's regulations.

(c) The Tribal Officer shall report any violation in the name of the Sitka Tribe of Alaska. The action shall be commenced by filing a complaint in the Sitka Tribal Court. The complaint shall state the name of the person charged and describe the conduct alleged to be in violation of this Ordinance or Commission regulations. The person charged shall be given a copy of the complaint and have 15 (fifteen) days from receipt of the complaint to prepare for the initial hearing in

the Sitka Tribal Court. The accused shall have the rights set forth in 25 U.S.C. 1302 and shall receive notice of those rights when served with the complaint.

SECTION 9 SEVERABILITY

If any portion of this Ordinance is determined by a Court of competent jurisdiction to be unconstitutional, or otherwise invalid, that portion may be stricken, but the remaining provisions shall remain effective.

SECTION 10 CIVIL RIGHTS

All proceedings conducted pursuant to this Ordinance shall be subjected to the provisions of 25 U.S.C. 1302, and any other applicable law.

SECTION 11 AMENDMENTS

(a) Proposals for amendments, including making other Tribes or Villages a party to this Ordinance, may be taken from the Commission or IRA Councils which are parties.

(b) The Commission must pass the proposed amendment by a majority vote of those present at a duly convened meeting at which a quorum is present. When a proposed Amendment is passed by the Commission, then it must then be presented, by Resolution, to the Tribal Council of the Sitka Tribe. The Tribal Council must then agree, by majority vote at a duly convened Council meeting at which a quorum is present, to approve the proposed Amendment before an Amendment becomes a part of this Ordinance. The Amendment shall then be posted for at least 30 days at the main Sitka Tribal government offices. The Amendment shall also be posted for at least 30 days at City Post Offices and Office Buildings and the Alaska Department of Fish & Game, and the Fish & Wildlife Protection Office. During this time, notice of the Amendment shall be published at least three times as legal notices in a local newspaper.

SECTION 12 RESERVED SECTION

This section is being reserved for any future need or problem that may arise concerning the issues addressed by this Ordinance.

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Enacted 1995

Last Revision June 19, 2002