

Proposed by:	Planning & Zoning Commission
Attorney Review:	04/04/2018
First Reading:	04/19/2018
Second Reading:	_____
Vote: <input type="checkbox"/> Aye <input type="checkbox"/> Nay <input type="checkbox"/> Absent	

**MUNICIPALITY OF SKAGWAY, ALASKA
ORDINANCE NO. 18-09**

AN ORDINANCE OF THE MUNICIPALITY OF SKAGWAY, ALASKA AMENDING SMC 4.08.030 HOTEL ROOM TAX, ADDING A NEW SMC CHAPTER 5.16 ON VACATION RENTAL BY OWNER, AND AMENDING SMC CHAPTER 19.02 PLANNING COMMISSION AND ADMINISTRATIVE PROVISIONS, SMC CHAPTER 19.04 ZONING REGULATIONS, AND SMC CHAPTER 19.06 USE DISTRICTS, ZONING MAP, AND ZONING CLASSIFICATIONS TO PROVIDE REGULATIONS FOR VACATION RENTALS IN SKAGWAY.

WHEREAS, the Planning and Zoning Commission recognizes that the demand for seasonal housing in Skagway far exceeds its supply, thereby negatively affecting the primary economy of Skagway – the tourism industry – and as such a seasonal housing crisis exists; and

WHEREAS, the Planning and Zoning Commission recognizes that the proliferation of vacation rentals such as those managed by AirBnB and VRBO have a negative effect on the availability of seasonal housing for persons working in the tourism industry within the Municipality; and

WHEREAS, given these concerns, the Planning and Zoning Commission has determined that vacation rentals should be regulated in order to alleviate the seasonal housing crisis in Skagway and its negative impact on the primary economy of the community; and

WHEREAS, the Planning and Zoning Commission finds that it would be appropriate to allow, by conditional use permit, vacation rentals in all use districts, and to limit to 25 the conditional use permits for vacation rentals that are not occupied by the property owner; and

WHEREAS, the Planning and Zoning Commission also recognizes the need for clarity in SMC 4.08.030, the code section on the 8-percent hotel room tax levied on room rentals of less than 30 consecutive days; and

WHEREAS, the Planning and Zoning Commission has held a long series of public work sessions seeking to find solutions to the community’s seasonal housing crisis, and held public hearings on February 8, 2018 and March 8, 2018 on code amendment proposals to regulate vacation rentals; and

WHEREAS, at its meeting on March 8, 2018, the Planning and Zoning Commission voted in favor of proposing to the Assembly code amendments that would regulate vacation rentals as set out in this ordinance;

NOW THEREFORE BE IT ORDAINED AND ENACTED BY THE MUNICIPALITY OF SKAGWAY, ALASKA AS FOLLOWS:

Section 1. Classification. Sections 3, 4, 5, 6, and 7 of this ordinance are of a general and permanent nature and shall become a part of the Skagway Municipal Code.

Section 2. Purpose. To amend SMC Section 4.08.030, add a new SMC Chapter 5.16, and amend SMC Chapter 19.02, SMC Chapter 19.04, and SMC Chapter 19.06 to provide for regulations pertaining to vacation rentals, in order to alleviate the seasonal housing crisis in Skagway and its negative economic impacts.

Section 3. Amendment. The Skagway Municipal Code is hereby amended; (~~strike through~~) indicates text to be deleted from and (**bold underscore**) indicates text added to the current code. SMC 4.08.030 Hotel room tax is hereby amended as follows:

4.08.030 Hotel, **motel, and vacation rental** ~~room~~-tax.

- A. A retail sales tax upon hotel, **motel, and vacation** ~~room~~-rentals is hereby assessed and levied in the amount of eight percent (8%) of the gross revenues on all hotel, ~~and motel,~~ **and vacation** rents, and on all services provided in connection therewith.
- B. Hotel, **motel, and vacation** ~~room~~-rentals which continue for thirty (30) or more consecutive days shall be subject to sales tax, instead of hotel, **motel, and vacation rental** ~~room~~-tax, on or after the thirtieth consecutive day. Hotel, **motel, and vacation** ~~room~~-rentals which are less than thirty (30) consecutive days shall be subject to the hotel, **motel, and vacation rental** ~~room~~-tax even if the room or rooms were originally taken with the intent to use or occupy for thirty (30) or more consecutive days.

Section 4. Addition of New Chapter. The Skagway Municipal Code is hereby amended; (~~strike through~~) indicates text to be deleted from and (**bold underscore**) indicates text added to the current code. SMC Title 5 is hereby amended by adding a new Chapter 5.16 Vacation Rental by Owner as follows:

Chapter 5.16
VACATION RENTAL BY OWNER

Sections:

5.16.010 Vacation rental by owner (owner occupied).

5.16.020 Vacation rental by owner (non-owner occupied).

5.16.010 Vacation rental by owner (owner occupied).

- A. Vacation rental by owner (owner occupied) will be allowed in all SMC Chapter 19.06 use districts subject to issuance of a conditional use permit under SMC 19.04.060 and compliance with the permit. Permits will be subject to annual review.**

B. "Vacation rental by owner (owner occupied)" means a furnished apartment, house, room, or professionally managed overnight accommodation that is the owner's primary residence and is rented on a temporary basis of not more than thirty (30) consecutive days.

5.16.020 Vacation rental by owner (non-owner occupied).

A. Vacation rental by owner (non-owner occupied) will be allowed in all SMC Chapter 19.06 use districts subject to issuance of a conditional use permit under SMC 19.04.060 and compliance with the permit. Conditional use permits for vacation rental by owner (non-owner occupied) shall be limited to twenty-five (25) permits within the Municipality of Skagway. Permits will be subject to an annual review. If ownership of the property subject to the conditional use permit changes, the conditional use permit will no longer be valid.

B. "Vacation rental by owner (non-owner occupied)" means a furnished apartment, house, room, or professionally managed overnight accommodation that is not the owner's primary residence and is rented on a temporary basis of not more than thirty (30) consecutive days.

Section 5. Amendment. The Skagway Municipal Code is hereby amended; (~~strike through~~) indicates text to be deleted from and (**bold underscore**) indicates text added to the current code. SMC 19.02.065(B) Specific Definitions of SMC 19.02 Planning Commission and Administrative Provisions is hereby amended as follows:

19.02.065 Definitions.

B. Specific Definitions.

10. "Bed and breakfast establishment" means a dwelling in which commercial lodging **of not more than thirty (30) consecutive days** is provided by the owner or operator to more than three (3) persons. The term includes boarding, rooming or tourist houses.

74. "Vacation rental by owner (owner occupied)" means a furnished apartment, house, room, or professionally managed overnight accommodation that is the owner's primary residence and is rented on a temporary basis of not more than thirty (30) consecutive days.

75. "Vacation rental by owner (non-owner occupied)" means a furnished apartment, room, or professionally managed overnight

accommodation that is not the owner's primary residence and is rented on a temporary basis of not more than thirty (30) consecutive days.

746. "Wildlife" means animals that live independently of people, in natural conditions.
757. "Yard" means an open, unoccupied space, other than a court, unobstructed from the ground to the sky except where specifically provided by this title, on the same lot on which a building is situated.
768. Yard, Front. "Front yard" means a yard extending across the full width of a lot, measured between the front lot line of the lot and the nearest exterior wall of the building which is the nearest to the front lot line.
779. Yard, Rear. "Rear yard" means a yard extending across the full width of the lot between the most rear main building and the rear lot line.
7880. Yard, Side. "Side yard" means a yard on each side of a main building, and extending from the front lot line to the rear lot line. The width of the required side yard shall be measured horizontally from the nearest point of a side lot line to the nearest part of the main building.
7981. Yards.
- a. In the case of double frontage lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards shall be provided on all frontages. Where one of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the planning official may waive the requirement for the normal front yard and substitute a special yard requirement that will not exceed the average of the yards provided on adjacent lots.
 - b. In the case of corner lots, a front yard of the required depth shall be provided in accordance with the prevailing yard pattern and a second front yard of half the depth required generally for front yards in the district shall be provided on the other frontage.
 - c. In the case of corner lots with two (2) or more frontages, the planning official shall determine the front yard requirements, subject to the following limitations:
 - (i) At least one (1) front yard shall be provided having the full depth required generally in the district;
 - (ii) No other front yard on such lot shall have less than half the full depth required generally.
 - d. In the case of corner lots in the Skagway business-historical zoning district which abut two (2) rights-of-way, sixty feet (60') wide or wider, both adjoining yards shall be front yards. No setbacks are required on front yards in this zoning district, and neither front yard of these corner lots shall require a setback, unless the planning official determines that such allowance does not correspond with prevailing yard patterns. In such case, the planning official shall determine any additional setback requirements.

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802. "Zoning change" means the alteration or moving of a use district boundary; the reclassification of a lot or parcel of land from one (1) zone to another.

Section 6. Amendment. The Skagway Municipal Code is hereby amended; (~~strike through~~) indicates text to be deleted from and (**bold underscore**) indicates text added to the current code. SMC 19.04.060(B)(10) of SMC 19.04 Zoning Regulations is hereby amended as follows:

19.04.060 Variances and conditional use permits.

B. Conditional Uses.

10. Recording. The planning commission shall cause to be recorded with the district recorder for Skagway, all conditional use permits granted by the planning commission. It shall also cause to be recorded all resolutions of the commission revoking or modifying any conditional use permit. Subsequent owners of property subject to a conditional use permit succeed to the benefits and limitations of the original permit holder, **except that conditional use permits for vacation rentals by owner (non-owner occupied) shall become void upon a change in ownership of the property as provided in SMC 5.16.020 due to the limited number of such permits.**

Section 7. Amendment. The Skagway Municipal Code is hereby amended; (~~strike through~~) indicates text to be deleted from and (**bold underscore**) indicates text added to the current code. SMC 19.06.020(A)(3), SMC 19.06.025(A)(3), SMC 19.06.030(A)(3), SMC 19.06.040(A)(3), SMC 19.06.050(A)(1), SMC 19.06.060(A)(3), SMC 19.06.070(A)(2), and SMC 19.06.080(A)(2) of SMC 19.06 Use Districts, Zoning Map, and Zoning Classifications are hereby amended as follows:

19.06.020 RC—Residential-conservation zone.

A. Uses Permitted.

3. Conditional Uses.

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- a. Churches;
- b. Solid waste facilities;
- c. Sand and gravel operations;
- d. Mining and quarry operations;
- e. Kennels;
- f. Timber harvesting and storage;
- g. Recreational cabins, lodges and small seasonal recreational facilities;
- h. Commercial greenhouses;
- i. Cemeteries;
- j. Pipelines and railroads;
- k. Campgrounds;
- l. Temporary structures for residential use, used in conjunction with building or land development, for one (1) year;
- m. Commercial recreation operations on municipal land;
- n. Taverns and bars;
- o. Restaurants serving alcohol;
- p. Service stations;
- q. Community gardens in accordance with Section 19.02.065(B)(17);
- r. Retail marijuana stores, marijuana cultivation facilities, marijuana product manufacturing facilities, and marijuana testing facilities;
- s. Accessory housing structures.
 - (i) Minimum of one hundred ninety (190) square feet.
 - (ii) Maximum of one thousand (1,000) square feet.
 - (iii) Must have an Alaska Department of Environmental Conservation approved water system and sewer system, and must have electricity; all must meet current codes.
 - (iv) No setback variances will be granted for new construction.
 - (v) All lot coverage, off-street parking and setback requirements for this zone still apply.
 - (vi) Construction must meet International Building Code for efficiency dwelling units;
- t. Other uses as determined by the planning commission pursuant to Section 19.04.060(B)-i;
- u. Vacation rental by owner (non-owner occupied);**
- v. Vacation rental by owner (owner occupied).**

19.06.025 RLD—Residential-low density zone.

A. Uses Permitted.

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3. Conditional Uses.
 - a. Churches;
 - b. Day care facilities;
 - c. Temporary structures for residential use, used in conjunction with building or land development, for up to eighteen (18) months:
 - (i) "Temporary structure for residential use" means RV or trailer or other livable structure of at least one hundred (100) square feet with sanitary and kitchen facilities to be occupied during construction of a permanent residence that will be removed at the end of the eighteen (18) month construction period;
 - d. Accessory Housing Structures:
 - (i) Minimum of one hundred ninety (190) square feet;
 - (ii) Maximum of one thousand (1,000) square feet;
 - (iii) Must have an Alaska Department of Environmental Conservation approved water system and sewer system, and must have electricity; all must meet current codes;
 - (iv) No setback variances will be granted for new construction;
 - (v) All lot coverage, off-street parking and setback requirements for this zone still apply;
 - (vi) Construction must meet International Building Code for efficiency dwelling units;
 - e. Commercial public water, sewer, electric, communication and other facilities;
 - f. Multiple storage structures or storage structures above three hundred twenty (320) square feet;
 - g. Taverns and bars;
 - h. Restaurants serving alcohol;
 - i. Service stations;
 - j. Community gardens in accordance with Section 19.02.065(B)(17);
 - k. Commercial greenhouses, agriculture and horticulture;
 - l. Retail marijuana stores, marijuana cultivation facilities, marijuana product manufacturing facilities, and marijuana testing facilities;
 - m. Other uses as determined by the planning commission pursuant to Section 19.04.060(B);
 - n. Vacation rental by owner (non-owner occupied);**
 - o. Vacation rental by owner (owner occupied).**

19.06.030 RG—Residential-general zone.

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A. Uses Permitted.

3. Conditional Uses.

- a. Multiple-family dwellings and apartment houses with three (3) or more units;
- b. Bed and breakfast establishments, rooming, and other residences rented by the day or week;
- c. Basement apartments;
- d. Temporary structures for residential use, used in conjunction with building or land development, for eighteen (18) months;
- e. Churches;
- f. Public and private elementary and secondary schools;
- g. Trailer parks and RV parks; provided, that:
 - (i) The area is at least sixty thousand (60,000) square feet;
 - (ii) There are at least two thousand (2,000) square feet for each allotted trailer space and one thousand (1,000) square feet for each pickup camper space overnight parking;
 - (iii) Utility connections are available for each trailer;
 - (iv) A bathhouse and restrooms are provided for overnight occupants;
 - (v) No business other than the renting of trailer space shall be conducted, except for self-service laundry facilities and vending machines for the use of the occupants of the trailer court;
 - (vi) Chapters 15.14 and 15.15 shall additionally govern the location, building regulations and operation of trailers, mobile homes and mobile home parks, and to any extent conflicting with this chapter, Chapters 15.14 and 15.15 shall be controlling. The foregoing shall not relieve a trailer owner or trailer park operator from complying in all particulars with this chapter when its provisions are not specifically preempted by Chapters 15.14 and 15.15;
- h. Medical services;
- i. Accessory Housing Structures.
 - (i) Minimum of one hundred ninety (190) square feet.
 - (ii) Maximum of six hundred (600) square feet.
 - (iii) Must have water, sewer and electricity, meeting current codes.
 - (iv) No setback variances will be granted for new construction.
 - (v) All lot coverage, off-street parking and setback requirements for this zone still apply.
 - (vi) Construction must meet Uniform Building Code for efficiency dwelling units;

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- j. Mobile Home Parks North of 15th Avenue.
 - (i) Minimum size of mobile home park is ten thousand (10,000) square feet.
 - (ii) Minimum lot size for each mobile home is three thousand (3,000) square feet with a maximum lot coverage of fifty percent (50%).
 - (iii) Mobile homes must be on permanent foundations with skirting in place;
- k. Congregate residences that meet IBC code; provided, that:
 - (i) Occupancy does not exceed ten (10) persons on a five thousand (5,000) square foot parcel or twenty (20) persons on a ten thousand (10,000) square foot parcel.
 - (ii) There is a minimum of one (1) parking space for every three (3) persons.
 - (iii) Lot coverage by all buildings does not exceed fifty percent (50%).
 - (iv) A six foot (6') high solid fence shall be required on all lot lines bordering RG lots.
 - (v) A yard area for recreation and outdoor congregation is provided.
 - (vi) Subject to review every two (2) years and can be revoked for excessive noise complaints or congestion issues or for other reasons as determined by the planning official.
 - (vii) Maximum of one (1) congregate residence per city block;
- l. Taverns and bars;
- m. Restaurants serving alcohol;
- n. Service stations;
- o. Community gardens in accordance with Section 19.02.065(B)(17);
- p. Marijuana cultivation facilities (indoor-only), marijuana product manufacturing facilities, and marijuana testing facilities;
- q. Other uses as determined by the planning commission pursuant to Section 19.04.060(B)-~~1~~;
- r. Vacation rental by owner (non-owner occupied);**
- s. Vacation rental by owner (owner occupied).**

19.06.040 BG—Business-general zone.

A. Uses Permitted.

3. Conditional Uses.
 - a. Business expansion of any uses allowed by principal or conditional use permitted in the BG zoning district; provided, that such expansion involves no more than one (1) lot adjacent to a lot line that is in common with the BG zoning district;
 - b. Assembly halls, fraternal and social organizations;
 - c. Funeral parlors;
 - d. Accessory Housing Structures.
 - (i) Minimum of three hundred (300) square feet.
 - (ii) Maximum of six hundred (600) square feet.
 - (iii) Must have stand-alone water, sewer and electricity, meeting current codes.
 - (iv) No setback variances will be granted for new construction.
 - (v) Off-street parking and setback requirements for this zone shall apply.
 - (vi) Construction must meet International Building Code Section 1207 for efficiency dwelling units.
 - (vii) Maximum of fifty percent (50%) lot coverage;
 - e. Community gardens in accordance with Section 19.02.065(B)(17);
 - f. Retail marijuana stores, marijuana product manufacturing facilities, marijuana cultivation facilities and marijuana testing facilities;
 - g. Other uses as determined by the planning commission pursuant to Section 19.04.060(B);
 - h. Vacation rental by owner (non-owner occupied);**
 - i. Vacation rental by owner (owner occupied).**

19.06.050 BH—Business – Skagway historical zone.

A. Uses Permitted.

1. Principal, **Accessory, and Conditional** Uses.

- a. All **principal, accessory, and conditional** uses as permitted in the BG zone **under Section 19.06.040(A)**, with the exception of those **uses** listed in subsection (B) of this section.

19.06.060 IL—Industrial-light zone.

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A. Uses Permitted.

3. Conditional Uses.

- a. Light custom manufacturing;
- b. Heavy and light equipment repair and service;
- c. Sale and storage of fuels, gases and Class I, II, and III liquids, flammables and explosives, in compliance with applicable fire codes;
- d. Power generating facilities;
- e. Residential dwelling units, including single-family, duplex, multifamily units, or mobile home parks north of 15th Avenue (provided, that the standards listed at Sections 19.06.030(A)(3)(j)(i) through (iii) are followed);
- f. Congregate residences as allowed by IBC; provided, that:
 - (i) Minimum lot size is five thousand (5,000) square feet and limited to one (1) building per five thousand (5,000) square feet.
 - (ii) A minimum of one (1) parking space for every three (3) occupants.
 - (iii) Lot coverage does not exceed sixty percent (60%) for all buildings.
 - (iv) A six foot (6') high solid fence shall be required on all lot lines bordering RG lots;
- g. Taverns and bars;
- h. Restaurants serving alcohol;
- i. Service stations;
- j. Community gardens in accordance with Section 19.02.065(B)(17);
- k. Retail marijuana stores and marijuana cultivation facilities;
- l. Other uses as determined by the planning commission pursuant to Section 19.04.060(B)-~~1~~;
- m. Vacation rental by owner (non-owner occupied);**
- n. Vacation rental by owner (owner occupied).**

19.06.070 I—Industrial zone.

A. Uses Permitted.

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2. Conditional Uses.
 - a. Sale and storage of fuels, gases and Class I, II, and III liquids, flammables and explosives, in compliance with applicable fire codes;
 - b. Trailer parks; provided, that:
 - (i) The area is at least sixty thousand (60,000) square feet;
 - (ii) There are at least two thousand (2,000) square feet for each allotted trailer space and one thousand (1,000) square feet for each pickup camper space;
 - (iii) Utility connections are available for each trailer;
 - (iv) A bathhouse and restrooms are provided for overnight occupants;
 - (v) No business other than the renting of trailer space shall be conducted, except for self-service laundry facilities and vending machines for the use of the occupants of the trailer court;
 - (vi) Chapters 15.14 and 15.15 shall additionally govern the location, building regulations and operation of trailers, mobile homes and mobile home parks, and to any extent conflicting with this chapter, Chapters 15.14 and 15.15 shall be controlling. The foregoing shall not relieve a trailer owner or trailer park operator from complying in all particulars with this chapter when its provisions are not specifically preempted by Chapters 15.14 and 15.15;
 - c. Residential uses, accessory to industrial uses listed in subsections (A)(1)(a) through (l) of this section, such as watchman's apartment, owner-operator's home, and necessary bunkhouses;
 - d. Congregate residences north of 23rd Street bridge as allowed by IBC; provided, that:
 - (i) The residential use is accessory to the industrial use.
 - (ii) Minimum lot size is forty thousand (40,000) square feet.
 - (iii) A minimum of one (1) parking space for every three (3) occupants.
 - (iv) Lot coverage does not exceed sixty percent (60%) for all buildings.
 - (v) A six foot (6') high solid fence or vegetative barrier shall be required on all lot lines bordering RC lots;
 - e. Taverns and bars;
 - f. Restaurants serving alcohol;
 - g. Service stations;
 - h. Community gardens in accordance with Section 19.02.065(B)(17);
 - i. Retail marijuana stores;
 - j. Other uses and structures customarily contingent and clearly subordinate to permitted uses, as determined by the planning commission pursuant to Section 19.04.060-;
 - k. Vacation rental by owner (non-owner occupied);**

I. Vacation rental by owner (owner occupied).

19.06.080 W—Waterfront zone.

- A. Uses Permitted. (Note that the special policies outlined in subsection (C) of this section must be followed when a building permit or conditional use permit for private or public sector development in this zone is obtained.)

2. Conditional Uses.

- a. Heliport;
- b. Manufacturing, processing, repair or sales related to maritime activity that requires or benefits from a shoreline location;
- c. Hotels and motels;
- d. Sale and storage of fuels, gases and Class I, II, and III liquids, flammables and explosives, in compliance with applicable fire codes;
- e. Water-dependent or related visitor industry services (not retail);
- f. Residential uses, accessory to waterfront uses listed in subsections (A)(1)(a) through (i) of this section, such as watchman's apartment, owner-operator's home, necessary bunkhouses or congregate residence;
- g. Taverns and bars;
- h. Restaurants serving alcohol;
- i. Service stations;
- j. Community gardens in accordance with Section 19.02.065(B)(17);
- k. Other uses and structures customarily contingent and clearly subordinate to permitted uses, as determined by the planning commission pursuant to Section 19.04.060-;

l. Vacation rental by owner (non-owner occupied);

m. Vacation rental by owner (owner occupied).

Section 8. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 9. Effective Date. This ordinance shall become effective immediately upon adoption.

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PASSED AND APPROVED by a duly constituted quorum of the Borough Assembly of the Municipality of Skagway this ___ day of _____, 2018.

Monica Carlson, Mayor

ATTEST:

Emily A. Deach, Borough Clerk

(SEAL)