

PROPOSED AMENDMENT

FROM: PARKS & RECREATION MEETING 04/12/2023

MUNICIPALITY OF SKAGWAY, ALASKA ORDINANCE NO. 23-10

AN ORDINANCE OF THE MUNICIPALITY OF SKAGWAY, ALASKA AMENDING MUNICIPAL CODE SECTION 5.20.050, BUSKER PERMITS, TO ALLOW BUSKING IN CERTAIN LOCATIONS IN SKAGWAY.

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

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the Skagway Municipal Code.

Section 2. Purpose. To amend Skagway Municipal Code section 5.20.050 Busker Permits for the purpose of allowing buskers is to provide a public amenity that may enhance the vibrancy, vitality, and ambience of the municipality. The Municipality seeks to allow such performances to the extent that they do not interfere with the reasonable expectations of residents to the enjoyment of peace and quiet of their homes and access to their homes; business owners and their customers access to their businesses; and public safety, including congestion.

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. Skagway Municipal Code section 5.20.050 Busker permits is hereby amended as follows:

5.20.050 Busker permits.

~~Reserved.~~

A. Purpose. The purpose of allowing buskers is to provide a public amenity that may enhance the vibrancy, vitality, and ambience of the municipality. The Municipality seeks to allow such performances to the extent that they do not interfere with the reasonable expectations of residents to the enjoyment of peace and quiet of their homes and access to their homes; business owners and their customers access to their businesses; and public safety, including congestion.

B. Definitions.

1. "Busker" is a street performer who may do balloon twisting, card tricks, clowning, comedy, contortions, dancing, singing, juggling, magic, mime, a mime variation where the performer is a living statue, musical performance, and puppeteering.
2. "Busking" or "street performance" is the practice of performing in designated areas, for gratuities or otherwise for free.
3. "Permittee" means the person who obtains a municipal permit to perform.

C. Permits required.

1. The busker who desires to use the public ways of the municipality shall first apply to and obtain a permit from the Skagway Visitor Department. Such permit shall in each instance

state the occasion for which it is issued and the date upon which it will expire and shall be in addition to any other tax or license to which the permittee may be liable.

2. This permit may be obtained through the Skagway Visitor Department and may take up to 72 hours for processing.
3. The application shall state the true, lawful, and complete name, contact number, and mailing address of the permittee.
4. All permit applicants must have a current state-issued identification or driver's license.

D. Issuance of permit / identification badge.

1. All buskers are required to secure a permit / identification badge from the Skagway Visitor Department.
2. The cost of a permit / identification badge shall be set by resolution.
3. Upon the approval of a permit by the Skagway Visitor Department, the applicant shall be issued a permit / identification badge in accordance with this chapter. The badge shall be conspicuously displayed on the permittee at all times.

E. Permitted areas.

1. Permittees are allowed to be in Centennial Park and in Pullen Creek Shoreline Park.
2. Signs mark the areas in which buskers can stand at each permitted area, and the number on the sign corresponds to the number of performers that can perform at each permitted area at one time. The busker may perform a maximum of two (2) consecutive hours per location. Breaks are also included within the two-hour limit.
3. Business owners cannot give permission to a busker to use the public right-of-way outside of their business.
4. All areas are first-come, first-served. It should be noted that the municipality may set up prohibitive zones that will be free of permittees at its discretion and may do so at any time.

F. Maintenance of location. Permittees shall keep the sidewalk, streets, or other public places adjoining and adjacent to their locations clean and free from any refuse caused by them or generated from their performance or operation.

G. Restrictions.

1. No permittee shall use a knife, sword, torch, flame, axe, saw, firearm, or other hazardous or potentially hazardous material, equipment, animal, or object that can cause serious bodily harm to any person.
2. A permittee shall be liable for any and all damages or injury to any person, including death, and for any and all damages to property, caused by or arising out of their activities, and shall ~~hold~~ defend, indemnify and hold harmless the Municipality of Skagway, its public officials, employees, representatives and volunteers against any and all liability, loss, costs, damages, or expenses ~~expenses of any kind and any nature, including death,~~ which may be incurred by or to which the ~~accrue to the~~ municipality may be subject arising out of ~~by~~ any action or omission of any permittee.
3. The Municipality of Skagway recommends that permittees obtain their own personal liability and accident insurance. ~~The permittees are not covered by any insurance of any kind of the Municipality.~~
4. Due to the historic nature of the area, amplification of sound is not allowed.

5. At no time shall a permittee make an oral solicitation or harass the public to pay for any performance.
6. Permittees may only receive voluntary donations from the public.
7. Any operation deemed as: interference with vehicular traffic; interference with pedestrian traffic; interference of public amenities; obstructing; disturbing; obscene; dangerous or damaging to public property; shall be removed immediately by such permittee upon the request of any authorized officer, in their sole discretion.
8. Selling or promoting tours or private businesses is strictly prohibited.
9. The selling of merchandise is strictly prohibited.
10. Hours of operation. The hours a permit holder is allowed to perform is Sunday through Saturday, 9:00 a.m. to 7:00 p.m.

H. Violations.

1. If a permittee is in violation of the rules contained in this chapter, their permit may be suspended for a period of thirty (30) days for the first offense.
2. For the second violation, the permit will be suspended for a period of ninety (90) days.
3. Any further violations will result in permanent revocation.
4. Any permit holder found to be under the influence of alcohol, marijuana or any controlled substance, and/or drinking alcohol or using any illegal controlled substance while busking will forfeit their permit immediately. The permit holder may reapply for a permit after thirty (30) days. If the permit holder is found acting in disorderly conduct toward anyone, drinking alcohol, or using any illegal controlled substance a second time, the permit will be permanently revoked.
5. Permits may be taken by any municipal official if the permittee is found in violation of this chapter, in their sole discretion.
6. Revocation of a permit may be exercised by the Tourism Director and/or Skagway Police Department.
7. Any busker who performs without a permit as required by this chapter shall be subject to a civil fine established by resolution.

- I. Appeals. If the permittee wishes to file an appeal to the revocation process, the permittee must file a written request within five (5) calendar days with the Tourism Director specifying the reasons for the appeal from the date appearing on the violation notice. The hearing shall be held before the Tourism Director or their designee. The Tourism Director or their designee may alter the rules set forth in this section at their sole discretion. The decision of the Tourism Director or their designee shall be final.

Section 4. 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 5. Effective Date. This ordinance shall become effective immediately upon adoption.

MUNICIPALITY OF SKAGWAY, ALASKA

ORDINANCE NO. 23-10

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PASSED AND APPROVED by a duly constituted quorum of the Borough Assembly of the Municipality of Skagway this __ day of _____, 2023.

Andrew Cremata, Mayor

ATTEST:

Steve Burnham Jr., Borough Clerk
(SEAL)