

Proposed by:	Historic District Commission	
Historic Dist. Com.	01/26/2009	
Planning & Zoning Com.	02/12/2009	
First Reading:	02/19/2009	
Second Reading:	03/05/2009	
Vote:	4 Aye	_0 Nay
		2 Absent

MUNICIPALITY OF SKAGWAY, ALASKA
ORDINANCE NO. 09-01

AN ORDINANCE OF THE MUNICIPALITY OF SKAGWAY, ALASKA AMENDING HISTORIC DISTRICT REGULATIONS IN TITLE 19.

WHEREAS, the Historic District Commission wishes to address changes in enforcement, signage and building materials; and

WHEREAS, the Historic District Commission held a hearing on the proposed changes on January 26, 2009; and

WHEREAS, the Planning & Zoning Commission held a hearing on the proposed changes on February 12, 2009;

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 Chapter 19.04.090, Administration, enforcement and penalties, Chapter 19.08.012, Sign standards by district, Chapter 19.08.015, Existing signs, 19.10.005 Definitions and 19.12.030, Roofs. 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.

Section 3. Amendment. Title 19, Planning & Zoning is hereby amended as follows:

- 19.04.090 Administration, enforcement and penalties.
 - C. Complaints Regarding Violations.
 - 1. Whenever a violation occurs, any person may file a complaint in regard thereto. All such complaints shall be brought to the attention of the zoning official, who shall record such complaints and immediately investigate and report thereon to the mayor.
 - 2. Chapters 19.08, 19.10 and 19.12 regulating signs and structures within the Historic District. Official letters of non-compliance shall be sent out following HDC meetings requesting the removal or correction of the non-compliance within seven (7) days with copies sent to the police department for enforcement. After seven (7) days a ticketed fine of five hundred dollars (\$500.00) per day will be assessed until the offense is removed or corrected. Each and every day that such violation continues shall be deemed a separate and distinct violation. Application for approval is not sufficient to defer fine; offense must be corrected or removed.
 - 3. The following violations of 19.08, 19.10 and 19.12 are exempt from 19.04.090(C)(2):
 - a. Banners on the exterior of a building.
 - b. Paper or plastic signs on the exterior of a building. These include paper or plastic signs on either side of out-swinging doors.

- c. Exterior display of merchandise. This includes merchandise in doorways that is placed so that it extends past the exterior door trim.
 - d. Balloons or wind devices.**
 - e. Any sign erected that the Historic District Commission has reviewed and denied.**
 - f. Artificial plants, shrubs or flowers.**
 - 4. Violations specified in 19.04.090(C)(3) shall be subject to immediate citation.
 - 5. The fine for violations of 19.04.090(C)(3) shall be \$100 per citation. The violation will be cited each day and continues until the violation is remedied.
- 19.08.012 Sign standards by district.
- A. Historic District (BH). All exterior signs must have an appearance, ...
 - 4. Prohibited signs
 - a. Banners displayed for commercial purposes.
 - b. Wind signs or devices and balloons.
 - c. Internally lighted signs.
 - d. Dolls or mannequins on public property.
 - e. Portable signs, including sandwich signs on public property.
 - f. Off premises signs.
 - g. Signs meant to be read from the public right-of-way that violate Alaska Statute AS 45.50.471 – AS 45.50.537 regarding Alaska’s Unfair Trade Practices and Consumer Protection Act or are otherwise illegal or misleading. For example signs advertising unsubstantiated discounts on merchandise.**
 - h. Signs meant to be read from the public right-of-way that advertise “end of Season” sales displayed before Labor Day.**
 - 5. Materials.
 - a. Dimensional lumber is preferred; canvas and glass are allowed. Sheet metal, angle iron, steel, and enameled metal are allowed.
 - b. Plywood: Only marine grade or medium density overlay (mdo) plywood is allowed. Plywood must be maintained so as not to show delamination, tipping of surfaces, paint splitting or cracking, plugs or other deterioration. Plywood signs shall have their laminated edges covered with sign borders or frames (see definition). Plywood signs shall not be constructed so as to use full plywood dimensions such as 4x4, 4x8, 8x16, etc.
 - c. Plastic, Masonite or homosote **Polystyrene, Polycarbonate, or Acrylic** type materials **used for substrates** are not allowed. **Substrate is the material out of which the face of a sign is made. Wood, metal sheeting, paper, laminated products and acrylic are some examples of sign substrates.**
 - d. Extruded metal is not allowed.
 - e. Paper is not allowed for exterior use.
 - f. Driftwood or other types of weathered wood use is prohibited.
 - g. **The use of screen printed or wide-format printed sheets for signage is not allowed. Signs shall have painted lettering and design elements or may use individual vinyl letters and design elements applied to the substrate.** Vinyl letters or silhouettes may be applied to a wood sign, but signs made with plastic or vinyl that entirely covers the wood or other material is not allowed.
 - h. Material such as “Luster Board” “Alumacorr” or other laminated substrate sign materials may be used with the following provisions.**
 - (i) All lettering or design embellishments shall be painted or applied individual letters or elements.**

- (ii) The sign shall have a matte or flat finish. Gloss finishes are not allowed.**
 - (iii) The substrate shall have an overall thickness of more than ½" to give the appearance of dimensional lumber in the finished sign.**
 - (iv) The sign shall have a wood frame covering the laminated edges of the substrate made of dimensional lumber with a minimum nominal dimension of 1" by 2".**
6. Lighting: Electrical lighting was a recent invention during the Skagway Gold Rush. While electric lighting of signs did not have wide use in Gold Rush Skagway, there is at least one example of an electrically lighted sign. This sign used exterior mounted light bulbs to delineate the business name.
- a. Electrically lighted signs like Kirmse's (a sign with the business name spelled out in individual light bulbs), or the Arctic Brotherhood Hall sign (a sign made of glass and wood lighted from within by an individual light bulb) might be allowed depending on style and design.
 - b. Signs may be remotely illuminated with spotlights. These lights shall not be set in such a manner so as to cast their beam on any adjoining or nearby building. Fully exposed floodlight type fixtures are prohibited.
 - c. Neon signs are not allowed.
 - d. Flashing signs are not allowed.
 - e. Internally lit, plastic signs are not allowed on the exterior of the business.
7. Sign Standards
- a. Facade Signs. Signs painted across the upper facade were oriented to pedestrians across the street and thus were larger in scale than those found elsewhere. Due to their large size, they were always simple and bold. They were normally located between the windows and lettering ranged from fifteen (15) to twenty (20) inches in height. Of similar size and function were panels that were hung across the front of the façade. To accentuate the sign, the sign background was often a color different from, but in harmony with, the colors of the building.
 - (i) **Provisions:** Facade signs shall not obscure or cover any architectural feature of a building such as window or door frames, belt course, corner board, cornice, etc. Façade signs shall not extend above the eave or be placed on the roof. Facade signs on a business front or frontage shall have no size limitation. Facade signs attached to a wall other than the front facade shall be no larger than ten percent (10%) of that total wall area up to eighty (80) square feet maximum. Façade Signs painted directly on a wall shall have no size limitations.
 - b. Projecting Signs **and Marquee Signs.** Another type of sign was mounted perpendicular to the building facade, projecting across the boardwalk. These signs were oriented to the pedestrian and were smaller scale than facade signs. Lettering ranged from five (5) to ten (10) inches high and retained a bold and simple message. These signs were ~~secured~~ **attached to the building and supported** with guy-wires lines to the facade or with a post at the street edge of the boardwalk. They were also hung under a marquee or canopy. Projecting signs were normally attached to the facade at the belt course, at the window, or just below the cornice. Sometimes the post used to support the projecting sign also had lettering on it. **Photographic evidence shows projecting signs were attached to the building at one end and were fixed and did not hang and swing from a pipe or other projection. Small signs were hung from fixed projecting signs; see subsection (g) below.**
 - (i) **Provisions:** Projecting signs shall not extend beyond the street edge of the boardwalk or into a street or alley. The use of post(s) to support projecting signs that are above public rights-of-way are not allowed. Sign clearance of projecting signs shall be a minimum of eight feet (8') above grade, ~~unless hung from a~~

~~marquee, where a minimum of seven feet (7') above grade is allowed. The building end of projecting signs shall be attached to the façade of the building. The street end of projecting signs shall be supported by guy-wires of sufficient size and number to safely suspend the sign. ~~3~~ ~~guy-wires, one horizontal on each side and one vertical. The guy wires should be of sufficient size to carry the sign.~~ **Projecting signs shall be fixed and not allowed to swing.** Sign height is dependent upon sign length. The sign heights in the chart below are the maximum sign height(s) allowed for the sign lengths listed, i.e. an 8' sign would allow a maximum ~~42"~~ **16"** sign height. The horizontal length measurement shall begin at the façade of the building, ~~whether the sign is attached to the building or not, except in the case of marquee signs which shall be the actual sign dimensions.~~ **Marquee signs may be mounted on the end fascia of a marquee or under a marquee. Marquee signs do not need to have one end attached to the building or be supported by guy-wires. The sign clearance for a marquee sign mounted under a marquee is seven feet (7') above grade. Marquee signs shall not extend beyond the limits of the marquee or balcony fascia. Marquee sign size is the actual dimensions of the sign.**~~

LENGTH	HEIGHT
8'	42 <u>16"</u>
7'	48 <u>22"</u>
6'	24 <u>28"</u>
5'	30 <u>34"</u>
4'	36"
3'	42"
2'	48"

- (ii) Projecting signs are limited to one per business frontage facing public property. In the case of marquee or balcony, a single faced projecting sign is allowed at each end. Signs on posts that support projecting signs, balconies or marquees shall be no wider than the width of the post. ~~Marquee signs shall not extend beyond the limits of the marquee or balcony fascia.~~
- (iii) Projecting signs within the Skagway Historic District are an exception to the currently adopted City Building Code if they meet the following criteria:
 1. The sign shall extend **from the building** no farther than to **within** one foot from the street edge of the boardwalk.
 2. The sign shall be securely attached to the façade of the building.
 3. The sign shall be supported by ~~at least three guy wires, one vertical and one horizontal on each side of the sign and be of sufficient size to support the~~ **guy-wires of sufficient size and number to safely suspend the sign.**
 4. The sign shall conform to all other IBC and City Code requirements.
- (iv) **Projecting signs that do not conform to the preceding projecting sign guidelines shall be required to meet those projecting sign standards by September 30, 2010 or be removed. In the interim, projecting signs that swing and are not fixed to the building shall be taken down for the winter season in the interest of public safety. The permitting official shall compile a list of these non-conforming signs for the HDC and notify the involved parties of the compliance deadline.**
- c. Window Signs. Another category of signs was those painted or applied directly onto the windows. These signs had the smallest lettering of the major sign types -- as small as several inches and up to ten (10) inches in height. Window lettering was occasionally more ornate than on larger signs, but generally maintained the simple, upper case lettering found on the other sign types.

- (i) Provisions: Signs painted on, or applied to windows shall total no more than twenty percent (20%) of the window glass area. Signs on transoms, door glass or upper story window glass are not restricted to the twenty percent (20%) rule for display windows. Signs on transoms are restricted to one line; signs on upper story glass windows should not be more than two lines; signs on doors may be multi-lined. Signs on transoms, doors, and upper story windows should not fill more than fifty percent (50%) of the entire glass area. Window area is measured from the farthest edge of visible glass, length times width.
- d. Freestanding Signs. During the Gold Rush, the most frequently used freestanding sign was a single post with a four (4) sided sign mounted on top. Size varied although none were large. This type of freestanding sign was placed on the boardwalk. Also, multiple posts were used to support a larger sign area. This type was not as common as the single post and was usually placed along the blank sidewall of a building.
 - (i) Provisions: Freestanding signs shall not be placed on or allowed to straddle the boardwalk. Maximum overall height shall be twelve feet (12'). Maximum sign area shall be thirty (30) square feet. Freestanding signs are limited to one (1) sign per lot or business frontage. Sign must pertain to that business frontage.
- e. Portable Signs and Sandwich Signs. In Gold Rush Skagway signs were often placed on the street side of the boardwalk in front of a business. These were portable in nature and were most often a sandwich sign, which opened into an "A" shape. While the use of this type of sign is rare elsewhere, it adds to Skagway's Gold Rush ambiance. However, the concern in addition to historic accuracy is public safety.
 - (i) Provisions: Maximum sign height is four feet (4'); maximum sign width is two feet (2'). Minimum sign height is two and a half feet (2 1/2'), with width of one and one quarter feet (1.25'). Preferred material is dimensional lumber. If other material is used, other sign requirements apply, such as framed edging on plywood **laminated substrate**. No more than one portable sign per business frontage is allowed. Portable signs are prohibited on public property.
- f. Silhouette Signs. This type of sign was not widely used in Gold Rush Skagway, but there were some examples. Most often the sign was a symbol that related to or represented the business advertised, such as a teapot for a tearoom, a shoe for a cobbler or spectacles for an optometrist.
 - (i) Provisions: Silhouette signs should be cut from metal or dimensional lumber.
- g. Building Identification Sign. These signs were hung from the bottom of a projecting sign and identified the building name or the business proprietor's name. These signs were not large.
 - (i) Provisions. The maximum sign height will be 4". The sign shall only be long enough for the building or proprietor name, but in no case shall it be longer than the projecting sign. These signs will be limited to the building or the proprietor's name, in caps. The building name may use the word building, such as the "Pack Train Building". The proprietor's name signs shall end in "Prop." The sign shall be made from dimensional lumber. One building identification sign per projecting sign. No ornamentation other than lettering is allowed on the sign.
- h. Paddle Sign. These signs were placed on the lower sill of display windows and usually identified merchandise, products or services.
 - (i) Provisions. The maximum sign height will be 6". The sign length shall fill the space at the bottom of the display window and fit tightly at each end to the window balusters. The sign may not project past the windowsill. The sign language is limited to merchandise, products, or services provided on premise.

Examples would be T-shirts, Curios, Tours, Repairs, etc. The sign shall be angled, with its lower edge even with the edge of the windowsill.

- i. Totems. The display of totem poles to draw attention to a business was a Gold Rush era practice that continues to modern times.
 - (i) Provisions: Totems shall use Southeast Alaskan Native stylization and motif. Three-dimensional carved totems will not be added to total sign area.
 - (ii) Totems shall be carved from wood.**
- j. Sculptures. While the use of sculptures may be allowed it is discouraged as there is only one instance of photographic evidence of a Cigar store Indian.
 - (i) Provisions: Sculptures shall be of local historical content or local wildlife. Sculptures shall be three dimensional and realistic in style. Sculptures shall not be added to total sign area.
 - (ii) Sculptures shall be made of materials available in 1898 Skagway.**
- k. Dolls and Mannequins.
 - (i) Provisions: This type advertisement should represent a Skagway Gold Rush character or have turn of the century dress. The doll or mannequin should also be of human size. Dolls or mannequins are not allowed on public property. Dolls or mannequins inside of buildings are exempt from these requirements.
- l. Murals. Photographic evidence shows several signs using artwork in addition to lettering. The use of artwork was not extensive and the signs using artwork were not extremely large.
 - (i) Provisions: Murals are not restricted in size, but must be painted directly on the building. Murals shall not obscure or cover or encompass any architectural feature of a building such as window or doorframes, belt course, corner board, cornice, etc. Murals shall not extend above the eave or be placed on the roof. Murals will not be allowed on the front facade. Only one mural will be allowed per building. Mural content will be judged according to historic and artistic content. Historic content: Murals may be a representation of the era, local events, people, wildlife, Southeast Alaskan Indian motif, or a reproduction of an actual historic mural. Artistic content: The mural artwork should be realistic as opposed to abstract or impressionistic in style.
- m. Roof Peak Signs. This type of sign was usually used by hotels in Skagway to advertise their location at a great distance.
 - (i) Provisions: Roof peak signs will be restricted to multi-storied buildings only and limited to business name only. Roof peak signs shall not project beyond the roof edges. In order for the sign to appear proportional to the building, maximum sign height shall be two feet (2') for a two-story building and two and a half feet (2.5') for a three-story building. Maximum sign length shall be ten feet (10') or fifty percent (50%) of peak length, whichever is greater.
- n. Roof Signs. There were a small number of roof signs painted directly on the slope of a gabled roof during the Skagway Gold Rush.
 - (i) Provisions: Signs shall be painted directly on the roofing material. The sign content shall be limited to the business name only. The sign should fill the entire area of the sloping side of the roof. Lettering shall be block style. Roof signs are allowed only on gable roofs.
- o. Awning signs. Awning signs are names or words printed, painted, or applied to an awning fringe. The lettering size should be proportional to the fringe height. The lettering may be painted or applied but not cut out, and should be an appropriate style.
- p. Flags. Flags do not require approval as long as the following are adhered to;

- (i) It is universal custom to display the flag from sunrise to sunset on buildings and stationary poles in the open. If displayed during hours of darkness proper illumination should be provided.
- (ii) With another flag against a wall with staffs crossed, the staff of the US flag should be in front and the US flag hung on its own right.
- (iii) The US flag should be at the center and highest point of a group when a number of flags of States, localities, and societies are grouped.
- (iv) The US flag should be at the peak when flown from the same halyard with other flags.
- (v) Flags of two or more nations should be flown from separate flagstuffs of equal height, with the flags approximately equal in size. In time of peace no nations flag should be displayed above another.
- (vi) Always display the US flag with the union up EXCEPT in case of dire emergency or distress.
- (vii) The flag should never touch anything beneath it, such as ground, water, floor, or merchandise.
- (viii) When the flag is in such condition that it is no longer a fitting emblem of display it should be destroyed in a dignified way, preferably by burning.
- ~~q.~~ ~~Building Register Signs. This type sign is an exception to the prohibition to off-premises signs and is meant to provide a means to list the businesses in a complex. The intent is that this type sign shall be limited in its size. Building Register Signs shall meet the following criteria;~~
 - ~~(i) The register sign must list a minimum of two businesses.~~
 - ~~(ii) All the signs shall be made using dimensional lumber and be the same height, length, color, have the same font and shall be displayed together in a vertical list.~~
 - ~~(iii) The businesses listed shall be in a contiguous complex that is controlled by one entity either by lease or ownership or both.~~
 - ~~(iv) The signs shall be no taller than 6" or longer than 24".~~
 - ~~(v) The sign content is limited to the business name and a "pointing" device such as an arrow or pointing hand. This pointing device shall be consistent on all the signs in the registry.~~
 - ~~(vi) One registry per complex.~~
- ~~rg.~~ Off-premises Signs. This type sign is prohibited. Premises is defined as the specific building a business is located in; the four walls and a roof encompassing a single business. An off-premise sign is any sign that is proposed for any wall or roof that does not directly encompass the premises the sign names.

19.08.015

Existing signs.

- A. Existing signs that do not conform to the provisions of this code shall be considered nonconforming signs. It is the intent of this code to eliminate nonconforming signs. All non-conforming signs shall become subject to removal, as being in violation of this chapter upon the occasion of a change to the sign in question or any change in property ownership, including inheritance. **The sign subject to this section is: Corrington's Alaska Ivory; façade sign on the north alley wall has no framing border.** ~~Signs subject to this section are those listed below:~~
 - ~~1. Corrington's Alaska Ivory: Façade sign on North alley wall has no framing border;~~
 - ~~2. Dedman's Photo: Signs attached to the awning support posts are too wide, exceeding the width of post.~~
- B. Any non-conforming sign that becomes structurally unsound, unsafe, or qualifies as a public nuisance shall be subject to removal.
- C. Portable signs on public property are prohibited upon passage of this chapter.

- D. Signs with raised or routed letters and roof peak signs on one story buildings that exist at the passage of this code are allowed to remain, until damage exceeding fifty percent (50%) of the sign or its assessed value should occur, or until transfer of the business ownership or change of location. The term "transfer of ownership" means and includes transfer arising from the business owner's selling, assigning, conveying, leasing to another, forfeiting or abandoning the business to another; transfers by inheritance, through a will, or divorce proceedings; and includes any transfer of fifty-one percent (51%) or more of the equity interest in the business to another person or legal entity. Existing signs with raised or routed letters are as follows:
1. Sign on north façade of the Pack Train;
 - ~~2. Sign on east façade of Colombian Emeralds;~~
 - ~~3. Sign on south façade of Chilkoot Charlie's;~~
 - ~~4. Sign on east façade of Hunter's Theater;~~
 - ~~5. Signs on east façade of the Arctic Brotherhood Hall;~~
 - ~~6. Sign on east façade of the US Post Office;~~
 - ~~7. Sign on the west façade of City Hall;~~
 - ~~8. South façade sign and West projecting sign on Little Switzerland; and~~
 - ~~9. Projecting sign on the West façade of the Kone Kompany.~~
- ~~One story buildings with roof peak signs already in place are the Popcorn Wagon and Southeast Tours.~~
- E. Replacement of non-conforming signs according to an owner elected accelerated schedule is in the public interest.
- F. Portable signs on public property are prohibited upon passage of this ordinance.

19.10.005 Definitions.

~~A. Definitions.~~

~~129. "Style." One characteristic of an individual, period, school, or nation.~~

130. "substrate." The material out of which the face of a sign is made. Wood, metal sheeting, paper, laminated products and acrylic are some examples of sign substrates.

~~131. "Symmetry." The visual balance of the architectural features such as windows and doors on the front facade of a building.~~

Note: The remainder of the definitions will be renumbered.

19.12.030 Roofs.

A. Rooflines were not a predominant sight in Skagway as most were hidden behind false fronts. Those that were visible or behind these facades were either shed or gable. Occasionally, false gables or portions of the gable roof were a part of the facade. Today's requirements for fire safety must be met.

B. Historic Buildings: original roofing material and features such as chimneys, dormers and/or decorative elements are to be retained and repaired if at all possible. If new roofing is necessary or desired, the preferred treatment is to replace the original with identical new material. If this is not possible or desirable, then the use of Fireclass A, organic felt or fiberglass matt composition type shingle, preferably in a "thick butt" design is acceptable. These are to be laid approximately five inches (5") to the weather with straight and true exposed edge lines. Corrugated metal roofing may also be allowed. **Unless the historic roofing material was wood shakes, this material is not allowed as replacement roofing.**

C. New Construction: contemporary roofing materials are available in a wide variety of sizes, materials, colors and designs. Mechanical systems and other devices

which are roof mounted are to be designed in such a way that they are not visible from the street and are harmoniously incorporated into the overall building design. Visibility of the roof from street level will be a major factor in approval of roofing materials. The projection of eaves beyond the edge of the false front should be kept at a minimum. The roof shape shall be a minimum slope of six (6) inches rise to a maximum twelve (12) inches run for gable roofs except when a false front masks the pitch of the roof. Gutters and downspout shall be as unobtrusive as possible and shall not be placed on the building's main facade. In most cases they should be painted the same color as the roof's trim. **Wood shakes are prohibited as roofing material.**

- D. New mechanical systems, solar panels, flat skylights and/or other devices on the roof are to be placed so they are inconspicuous from the street and in such a manner that no damage is done to any character defining features of the building.

Section 4. Severability. If any provision of this ordinance or any application of the ordinance 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.

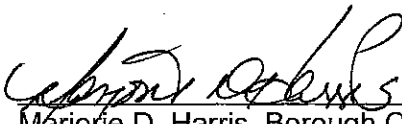
Section 5. Effective Date. This ordinance shall become effective upon adoption of the Borough Assembly.

PASSED AND APPROVED by a duly constituted quorum of the Borough Assembly of the Municipality of Skagway this 5th day of March, 2009.



Thomas D. Cochran, Mayor

ATTEST:



Marjorie D. Harris, Borough Clerk

(SEAL)



SARAH PALIN, GOVERNOR

DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL

1031 WEST 4TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-5903
PHONE: (907)269-5100
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April 4, 2008

CERTIFIED MAIL

Casey McBride, Owner
Taiya River Jewelry
P.O. Box 520
Skagway, AK 99840

Re: Complaints of Unfair or Deceptive Retail Practices in Jewelry Stores in Southeast Alaska

Dear Mr. McBride:

The Attorney General's Office has received complaints regarding unfair or deceptive business practices by jewelry stores in Juneau, Sitka, Skagway, and Ketchikan. These practices, if proven, would violate Alaska's Unfair Trade Practices and Consumer Protection Act, ("Consumer Protection Act"), AS 45.50.471 – AS 45.50.537. Last fall, this office independently verified that many of the practices reported are occurring in at least some of these locations in Southeast Alaska.

The fact that you are receiving this letter does not mean that we have received complaints about your business or that you have done anything wrong. The purpose of this letter is to inform you of the types of illegal practices that have been reported and to advise you that if your business has engaged, or is engaging, in any of the described acts or practices, you should refrain from such conduct. Also, we urge all businesses to take any action necessary, including providing training for your employees, to ensure your business does not engage in conduct that violates the Consumer Protection Act or any other applicable laws.

Misrepresentations Regarding Quality and Origin

We have received reports of sales staff making representations that gold quartz, gold nuggets, jade, and other stones or minerals are "natural," when they are in fact manufactured, or that they are "from Alaska" when in fact they are from locations outside of Alaska. Misrepresentations regarding the origin or quality of a product constitute violations of the Consumer Protection Act. In particular, the Act prohibits:

- falsely representing or designating the **geographic origin** of goods or services;
- causing a likelihood of confusion or misunderstanding as to the **source**, sponsorship, or approval of goods or services;

- representing that goods or services have sponsorship, approval, **characteristics**, ingredients, uses, benefits, or quantities that they do not have, and
- representing that goods or services are of a particular **standard, quality, or grade** if they are of another.

AS 45.50.471(b)(2), (3), (4), and (6). Your sales staff should have sufficient knowledge and training to avoid making misrepresentations about the merchandise in your store, and any advertising or in-store signs or labels should correctly describe origin, quality, and characteristics.

Misrepresentations Regarding Price Reductions

We have also received reports of advertisements for sales or price reductions that violate the Consumer Protection Act and Alaska's Retail Sales Regulations, 9 AAC 05.010-05.900. **The Consumer Protection Act prohibits "making false or misleading statements of fact concerning the reason for, the existence of, or the amounts of price reductions."** AS 45.50.471(b)(10).

1. Misrepresentations Regarding the Reason for Price Reductions

One category of complaints involves advertisements for "going out of business" sales. If a business is not actually going out of business permanently, such advertising is deceptive and violates the Act. The Retail Advertising Regulations state:

It is an unfair or deceptive act or practice for any seller to advertise merchandise for sale under special circumstances using phrases such as "selling out," or "going out of business," unless the retailer is in fact going out of business and the advertised merchandise is permanently reduced to clear the merchandise.

9 AAC 05.020(b). Thus, a business should not advertise a "going out of business" sale in September when it is simply closing for the winter months.

2. Fictitious Comparison Pricing

We have received reports of, and observed, advertisements for price comparison sales such as "70% Off" or "Guaranteed 65% Savings" and it is reported that advertisements like this remain posted in some stores' windows throughout the cruise ship season.

It is a violation of the Act to engage in price comparison advertising when the reduction in price is based on a fictional comparison price; i.e., an original price that is not a regular price at which sales actually occur. A "regular price" is defined as the "actual, good faith price at which the seller openly and actively offered the merchandise to the public on a regular basis, for a reasonable period of time in the recent, regular course of the seller's business." 9 AAC 05.900(6).

The regulations of the Federal Trade Commission (FTC) also state that if a seller advertises a price comparison, the original price must be a genuine price at which the item was offered for a reasonable period of time, or else the pricing is deceptive. "If the former price being advertised is not bona fide but fictitious – for example, where an artificial, inflated price was established for the purpose of enabling the subsequent offer of a large reduction – the 'bargain' being advertised is a false one; the purchaser is not receiving the unusual value he expects." FTC Guidelines Against Deceptive Pricing, 16 CFR § 233.1(a).

3. "Continuous" Sales

In addition to the problem of deceptive comparison pricing in the above example of "70% off or "Guaranteed 65% savings," such advertisements are problematic because the "sales" are alleged to have taken place continuously throughout the season. Under the Retail Advertising Regulations, it is unfair or deceptive conduct for a seller to advertise merchandise as being on sale if the "sale" price is the price for which the merchandise is actually sold for more than six months out of any twelve-month period. For seasonal merchandise, the "sale" price is false if it is the actual price for more than half the time it is offered. 9 AAC 05.020.

To avoid conducting sales that violate Alaska law, you should ensure that if you use price comparisons, they are based on legitimate, regular prices; that if you hold a "going out of business" sale that you are actually terminating the business and permanently reducing prices, or that any other stated reason for a sale accurately reflects the reason for the sale; and that you do not offer merchandise as being "on sale" when that price is offered for more than half of the season.

Other Issues

During the last few years, this office has received complaints about jewelry stores that raise additional consumer protection concerns. These acts or practices may not occur

as frequently as those described above, but they are of significant concern to this office. They include:

- Cruise ship employees or agents, while visiting stores, exerting influence on consumer purchasing decisions without disclosing their relationships with the stores;
- Appraisals that are incomplete or that are inflated;
- Financing and layaway options that fail to disclose material terms and conditions and, in some situations, fail to comply with the Truth in Lending Act;
- Refund policies that are not clearly disclosed at the time of purchase or that are contradicted by oral representations by sales staff;
- Operating and advertising under a business name other than the name used on the business license, in violation of 12 AAC 12.020(g);
- Poor customer service (failure to answer correspondence and return telephone calls; difficulty of contacting business during non-cruise season).

Conclusion

As you are likely aware, the penalties for violations of the Consumer Protection Act can be significant. The Attorney General may seek injunctive relief, restitution for consumers, full costs and attorney's fees, civil penalties of no less than \$1,000 and up to \$25,000 for each violation, and other remedies. Additionally, the Consumer Protection Act provides a private right of action, allowing consumers to bring their own lawsuits and obtain treble damages against a violator.

We ask that you take this opportunity to review your store's policies, practices, and training materials to ensure that you and your sales staff are not engaging in unfair or deceptive acts or practices.

Please contact me if you have any questions about the Consumer Protection Act.

Sincerely,

TALIS J. COLBERG
ATTORNEY GENERAL

By: 
Cynthia C. Drinkwater
Assistant Attorney General



MUNICIPALITY OF SKAGWAY
Historic District Commission
Meeting Date- January 26, 2009 in the Assembly Chambers

Draft

Page 1 of 5

1. **CALL TO ORDER:**

Chairman McBride called meeting to order at 5:35 p.m.

2. **ROLL CALL:**

PRESENT: Chairman Casey McBride, Commissioners Virginia Long, Doug Hulk, Nancy Schave and Assembly Representative Lisa Cassidy

ABSENT: Commissioner Su Rappleye

3. **APPROVAL OF MINUTES:**

A. December 15, 2008 Regular meeting

The minutes were approved as written with no objection.

4. **APPROVAL OF AGENDA:**

A. January 26, 2009 Regular Agenda

The agenda approved as written without objection.

5. **COMMUNICATIONS:**

A. Statement of contact

Mr. Karl Kuplar asked Chair McBride how trademarks were handled. Chair McBride informed him that business names were alright as long as lettering follows all other guidelines. Logos aren't allowed unless inside the windows, but not outside.

Chair McBride will make up a letter to the Borough Treasurer for the budget to allow Permitting Official Rauscher to attend meetings at least in the summer time. One meeting starting in April through July; which will cover the busiest time.

An email from Mr. Dennis Corrington was received and Chair McBride addressed the last bullet point of \$500 per day, indicating that it used to be \$300 per day. He indicated that the fine was kicked up to impress people not to mess around and it has worked well. It hasn't had to be levied. Borough Clerk Harris stated that when it was \$300 per day it was written in a way where it was under the magistrate's prerogative, so the magistrate could levy up to \$300 per day. This method was often fought in court and the fine was reduced with signs still up that were not in non-compliance. The current verbiage is a \$500 per day fine.

B. Public Comments

No public Comments

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6. **UNFINISHED BUSINESS:**

- A. No unfinished business

7. **NEW BUSINESS:**

- A. Public Hearing- Historic District Guideline Code Changes

No testimonies made except for Dennis Corringotn's email.

Chair McBride walked through the changes to the code making any amendments to the ordinance.

Motion/ Second: Long/ Albecker

To approve changes to the ordinance.

19.04.09C(3)subject to immediate ticket- Balloons and wind devices and any sign reviewed and denied by the HDC and artificial plants shrubs or flowers have been added. Vice Chair Long clarified that it is only for signs that have been denied and still put up, not signs that were approved, but something different was put up. Chair McBride indicated that it would include signs that were put up without approval.

19.08.012 G & H Prohibited Signs- Vice Chair Long clarified that this regulation is for signs that are inside the store and readable from the Public right of way. She requested that the new regulations be sent to the business owners at the beginning of the season so they are informed. Commissioner Hulk questioned if this conflicts with any other parts of the code, like advertising inside the store. Chair McBride mentioned that the ordinances are written for the exterior and that this is a step inside, but he feels that these are meant to be read from the street and they are misleading and/or illegal. End of season sales are going up at the end of July and it is ridiculous, most of the businesses don't play that game and it's not fair to let some businesses get away with it when it is so misleading and in some cases illegal.

Commissioner Hulk questioned if there would be a violation of rights. Chair McBride indicated that it wasn't a matter of rights, just a matter of custom that the HDC hasn't gone inside the stores. He indicated that the only reason this is in the ordinance is because it is illegal and misleading and it doesn't benefit the overall community to have that look. There is no specific line in the code that does not say that the HDC cannot regulate what is inside the store. He indicated that the in store regulations would be only for these signs and urged that no other commissioners try to regulate any other types of signs inside.

Borough Clerk Harris indicated that there have been stores with banners in the very back of the store visible from the public right of way and if there can be some clarification, maybe dimensions from the door that these signs were not allowed. Chair McBride indicated that if the sign is in the very back of the store, even though it is visible from the public right of way, it isn't intended to be seen from the public right of way. Vice Chair Long agreed that set dimensions

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wouldn't help as the owners would use that as a guideline to meet the minimum requirement. Chair McBride stated that that would include a big banner and a sign in the window case.

Assemblywoman Cassidy asked for an example of another sign that went against Alaska Statutes. Chair McBride indicated all the 50-70% off signs and/or End of Season Sale signs in June. He indicated that a regular sale sign is nebulous; this is geared to an unsubstantiated sale. He read a letter written by the Assistant Attorney General sent to Southeast Alaska stores last summer. He indicated that after this letter went out there was a decrease in the amount of 50-70% off sales signs.

Materials prohibited- Chair McBride elaborated on this section with more prohibited materials. He indicated that the plastic in section C came from the old bubble signs for Northern Lights and the liquor store. Commissioner Albecker asked about the vinyl being the same as the acrylic. Chair McBride clarified that it is saying that the whole substrate is made out of plastic, which is not allowed. Commissioner Albecker questioned if vinyl was not allowed on wood. Chair McBride confirmed.

Materials Prohibited Section G- screen printed or wide format printed sheets for signage is not allowed. Chair McBride explained the process as a wide format printer that prints the whole sign on a sheet of vinyl and sticks onto whatever substrate. He indicated the Fur Gallery used this for their sign having no depth and it was a lot more ornate than what could be achieved by hand or vinyl applied lettering. It does not have a historic or handmade look.

Materials Prohibited Section H- Chair McBride explained that a lot of the signs of the gold rush were the bigger signs out of stretched canvas or just canvas nailed up to the wall or painted on dimensional lumber. He indicated that these would be allowed because they hold up a lot better than plywood and they don't delaminate or get patch bubbles. This would allow for an overall better look.

Projecting Signs- Chair McBride looked at historic pictures and all were fixed by posts or attached to the building, but none were hung from a pipe that would swing freely.

Vice Chair Long questioned why the sign height was changed. Commissioner Hulk asked if a wind tunnel test was performed on the new height and width regulations. Chair McBride indicated no and he only changed the four long ones allowing a frame (4" to the sign height). He indicated that it really isn't allowed for in the ordinance now. Also, projecting signs were placed on pipes so that the business owners could maximize the height and width. With the new regulation requesting that the projecting sign be secured to the building, this increase in size would help in their sign being seen.

Assemblywoman Cassidy indicated that bigger signs seem unsafe in certain methods used for securing sign to building facade. Using a bracket that secured to the sign and the building would be better than using sheet rock screws. Chair McBride stated that guy wires would still need to be used in securing bigger signs. He indicated that the Building Official can state whether a sign looks unsafe and take measures to make sure the sign is safe. Assemblywoman Cassidy suggested in the spring to discuss how the signs are attached when reviewing applications. Three signs this winter were dangerous due to the wind blowing them down.

Motion/ Second: Schave/ Albecker

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To change 12" to 16" and to delete "whether the sign is attached to the building or not". **Motion passed unanimously by voice vote of those present.**

19.08.012B4iv- Chair McBride indicated that signs will not have to be changed, just moved in to attach to the facade of the building.

Commissioner Hulk questioned if the other specific time would be winter. Chair McBride indicated that there aren't many business open in the winter with swinging signs. He indicated that it is easier to fix it and attach it to the facade. The Radio Shack and the Hardware Store are not affixed to the building. McBride indicated there were no signs with pipes in Skagway Gold Rush Era.

6:23 p.m. recess

6:37 p.m. in session

➤ Portable signs- Chair McBride explained that he expanded plywood as a laminated substrate.

➤

Motion/ Second: Schave/ Long

To amend 1908.012(h) remove "modern" and insert "laminated". **Motion passed unanimously by voice vote of those present.**

19.08.012.4.I.ii- Commissioner Hulk questioned what if statues and totems were molded in plastic. Commissioner Albecker stated they are not sculptures. Vice Chair Long questioned if they have to be carved. Commissioner McBride confirmed.

Commissioner McBride stated that building register signs were deleted due to being too much of a hassle and only a few places could actually use them. Assemblywoman Cassidy questioned if registry signs that are currently up be in compliance. Chair McBride indicated that there are none up.

19.08.015 Existing/ Non-Conforming- Chair McBride stated that Deadman's photos signs was deleted as they are no longer there.

Motion/ Second: Long/ Schave

To delete #2 and modify sentence to "the sign subject to the section is Corrington's Alaska Ivory". **Motion passed unanimously by voice vote of those present.**

19.08.015.D 2 & 3- Chair McBride indicated that only three signs with raised letters are in existence. The other stores are no longer in operation.

19.10.005 Definitions- adding of the material substrate.

19.12.030B- Chair McBride took out shakes as they were considered primitive in the Gold Rush era. Skagway likes to promote a higher level of architecture and shakes were the first step before getting a real roof.

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Vice Chair Long asked for the definition of laminate. Chair McBride clarified it as different layers of material, like plywood, luster board, et cetera.

Commissioners are happy with the work this meeting.

Motion passed unanimously by voice vote of those present, to approve changes to the ordinance.

B. Training for Planning Commissions offered by the State of Alaska

Borough Clerk Harris indicated that conditional use permits and parliamentary procedure may be covered at the training. She does view the HDC as a type of planning commission due to the decisions that are made in regulating and planning for the Historic Zone. Vice Chair Long indicated it is wonderful and is interested in learning more about planning & zoning.

Assemblywoman Cassidy feels that a lot of new people can use some help and highly recommends the training.

8. **DISCUSSION ITEMS:**

A. Non-conforming/Non-compliance Signs and Structures

9. **NEXT MEETING:**

Next meeting is scheduled:

Monday, March 9, 2009 at 5:30 p.m.

Application deadline is 5:00 p.m. Friday, February 27, 2009.

10. **ADJOURNMENT:**

Motion/ Second: Long/ Schave

Meeting adjourned at 6:56 p.m.

Casey McBride, Chair

ATTEST:

Marjorie D. Harris, Borough Clerk

(SEAL)

Approved: _____