

Proposed by:	Public Safety Committee
First Reading:	03/17/2011
Second Reading:	05/12/2011
Vote:	5 Aye 0 Nay 1 Absent

**MUNICIPALITY OF SKAGWAY, ALASKA**  
**ORDINANCE NO. 11-07**

**AN ORDINANCE OF THE MUNICIPALITY OF SKAGWAY, ALASKA AMENDING TITLE 9 PUBLIC PEACE, SAFETY AND WELFARE BY ADDING 9.03 NOISE CONTROL; AND AMENDING NOISE CONTROL LANGUAGE IN TITLE 6 ANIMALS AND CHAPTER 8.04 NUISANCES.**

**WHEREAS,** The Municipality of Skagway has identified the need to address noise control provisions in municipal code;

**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 municipal code to address noise control. The Skagway Municipal Code is hereby amended (~~strike through~~) indicates text to be deleted from, and **bold** indicates text added to the current code as follows:

**Section 3. Amendment.** Title 6 Animals is hereby amended as follows:

Chapter 6.01

GENERAL PROVISIONS

- 6.01.010 Definitions.
  - A. "Domestic animal" means every kind of animal that is domesticated (not wildlife), including (without limitation) livestock of all kinds, dogs, cats, monkeys, birds and reptiles.
  - B. "Livestock" means every kind of domestic animal that is four (4) footed and ordinarily larger than a dog; and includes (without limitation) cattle, horses, swine, goats, sheep and llamas.
  - C. "Dangerous animal" means any animal which has ever bitten or attacked a human being.
  - D. **"Chronic animal noises" means repeated vocalization by an animal or animals in a 60-minute period from the time the noise begins for more than seven consecutive minutes during the daytime noise period from 7:00 a.m. to 10:00 p.m. and more than five consecutive minutes during the nighttime noise period from 10:00 p.m. to 7:00 a.m.**

Chapter 6.04

ANIMALS RUNNING AT LARGE

- 6.04.020 Control of dogs.
  - A. It is unlawful for the owner or keeper of any dog:
    - 1. To permit a dog to run at large within the city at any time;

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2. To permit a dog on public school grounds without permission from the superintendent;
  3. To permit a dog in public parks except on a leash and subject to all applicable rules and regulations pertaining to the use of parks;
  4. To permit a dog to enter a church, unless the dog is a Seeing-eye dog assisting a vision-impaired person;
  5. To permit a dog to enter a market or other place where food is stored, prepared, served or sold to the public, or any other public place or hall (except for animal shows or other exhibition purposes, veterinarians' offices, kennels, or places for which the licensing official has issued a permit); or
  6. ~~To harbor or keep a barking dog, whose barking is audible at night to persons on adjacent property.~~ **It shall be unlawful for any owner or custodian of an animal to permit it to make chronic animal noise.**
- B. Control of dogs is required by leash for all areas West of the railroad tracks and South of the bridge at 23<sup>rd</sup> Avenue and East of the Skagway River and the 7-Pastures.
- C. Control of dogs by voice command may be used for areas East of the railroad tracks and North of the bridge at 23<sup>rd</sup> Avenue and West of the Skagway River and the Yakutania Point Trail System except those areas noted in 6.04.020(B) above.

**Section 4. Amendment.** Chapter 8.04 Nuisances is hereby amended as follows:

Chapter 8.04  
NUISANCES

8.04.080 Miscellaneous public nuisances.

In addition to the other items declared to be public nuisances by this chapter, the following are declared to be public nuisances and are prohibited:

- ~~1. The continued making of loud or unusual noises which annoy persons of ordinary sensibilities, or the keeping of an animal which makes such noises;~~
- 2-1.** The operation or use of any electrical apparatus or machine which materially and unduly interferes with radio or television reception by others;
- 3-2.** Any use of a street or sidewalk, or a place adjacent thereto, which causes crowds of people to gather so as to obstruct traffic on such street or sidewalk, or which otherwise obstructs traffic thereon, except as may be authorized by law or city permit;
- 4-3.** All ditches, drains, wells, pools, cisterns, bodies or containers of water in which mosquitoes breed or are likely to breed, or which are so constructed, formed, conditioned or situated as to endanger the public health or safety;
- 5-4.** Rank weeds or grass, carcasses or accumulations of manure, refuse or other things which are, or are likely to be, breeding places for flies, mosquitoes, vermin or disease germs;
- 6-5.** Any pit, hole or other thing which is so constructed, formed, conditioned and/or situated as to endanger the public safety;
- 7-6.** Any fire or explosion hazard which endangers the public peace, health, safety or welfare.

- 8-7.** Any obstruction of public sidewalks by any permanent or temporary means that does not allow a radius of seventy-five percent (75%) of the width of the sidewalk to be open for pedestrian traffic flow.

**Section 5. Addition.** Chapter 9.03 Noise Control is hereby added to Title 9 Public Peace, Safety & Welfare as follows:

**Chapter 9.03  
NOISE CONTROL**

**Sections:**

**9.03.010** Definitions.  
**9.03.020** Noise Control.  
**9.03.030** Noise Permits.

**9.03.010** Definitions.  
**A.** The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

- 1.** "A-weighted sound level" means the sound pressure level in decibels as measured on a sound level meter using A-weighted network, the level of which so read is designated dB(A) or dBA.
- 2.** "Commercial area" means any area within the (BG) Business-general zone, and (BH) Business-Skagway historical zone.
- 3.** "Construction" means any site preparation, assembly, erection, substantial repair, alteration or similar action for or of public or private right-of-way, structures, utilities or similar property, but excludes demolition.
- 4.** "Construction season" means the period from April 1 through October 31, both dates inclusive, of each year.
- 5.** "Decibel (dB)" means a unit measure of sound level.
- 6.** "Demolition" means any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.
- 7.** "Emergency work" means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.
- 8.** "Impulsive sound" means sound of short duration, usually less than one second and of high intensity, with an abrupt onset and rapid decay, examples of which include explosions, drop forge impacts and the discharge of firearms.

9. **“Industrial area” means any area within the (IL) Industrial-light zone, (I) Industrial zone and (W) Waterfront zone.**
  10. **“Noise” means any sound that annoys or disturbs humans or causes or tends to cause an adverse psychological or physiological effect on humans.**
  11. **“Noise disturbance” means any sound that endangers or injures the safety or health of humans or animals, annoys or disturbs a reasonable person of normal sensitivities, or endangers or injures personal or real property.**
  12. **“Public right-of-way” means any street, avenue, highway, sidewalk, alley, public use easement or similar place owned or controlled by a governmental entity.**
  13. **“Public space” means any real property or structures thereon owned or controlled by a governmental entity.**
  14. **“Real property boundary” means an imaginary line along the ground surface and its vertical extension that separates the real property owned or leased by one person from that owned or leased by another person.**
  15. **“Residential area” means any area within the (RC) Residential-conservation zone, (RLD) Residential low density, (RG) Residential-general zone.**
  16. **“Sound” means an oscillation in pressure, particle displacement, particle velocity or other physical parameter in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.**
  17. **“Sound level” means the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network such as A, B or C as specified in American National Standards Institute specifications for sound level meters (ANSI SI.4-1971 or the latest approved revisions thereof). If the frequency weighting employed is not indicated, the A weighted shall apply.**
  18. **“Sound level meter” means an instrument that includes a microphone, amplifier, RMS detector, integrator or time average, output meter and weighting networks used to measure sound pressure levels.**
  19. **“Weekday” means any day Monday through Friday that is not a legal state holiday.**
- B. All terminology used in this chapter and not defined in subsection A of this section shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.**

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**9.03.020 Noise Control.**

- A. No person shall unreasonably make, continue or cause to be made or continued any noise disturbance except noncommercial public speaking or public assembly activities conducted on any public space or public right-of-way; municipal public works and garbage department employees in their regular course of business; and noise generated by the airport, railroad and state highway.**
- B. The following acts and conditions and the causing thereof are declared to be in violation of this chapter:**
- 1. No person shall own, possess or harbor any animal that frequently or for continued durations makes sounds common to its species in violation of the provisions of Title 6 Animals.**
  - 2. No person shall operate or cause the operation of any tools or equipment used in construction drilling, repair, alteration or demolition work:**
    - a. So that the sound there creates a noise disturbance across a residential real property boundary between the hours of 10:00 p.m. and 6:00 a.m. during the construction season, between the hours of 10:00 p.m. and 7:00 a.m. during the other months.**
    - b. Restrictions of subsection (B)(2) of this section do not apply to emergency work of public service utilities or emergency service operations.**
  - 3. No person shall operate or permit the operation of any mechanically powered saw, sander, drill, grinder, lawn or garden tool, snow blower, or similar device used in residential areas between the hours of 10:00 p.m. and 7:00 a.m. the following day so as to cause a noise disturbance across a residential real property boundary.**
  - 4. No person shall use or operate for any commercial or noncommercial purposes any loudspeaker, public address system or similar device so that the sound there from creates a noise disturbance across a residential real property boundary.**
  - 5. Except as otherwise permitted for noncommercial spoken language in subsection (B)(4) of this section, no person shall operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device that produces, reproduces or amplifies sound between the hours of 10:00 p.m. and 7:00 a.m. the following day in such a manner as to create a noise disturbance across a real property boundary, except for activities open to the public and for which a permit has been issued by the municipality as provided in section 9.03.030.**
  - 6. No person shall sound or permit the sounding of any electronically amplified signal from any stationary siren, whistle or similar device**

intended primarily for nonemergency or authorized signaling purposes from any place in such a manner as to create a noise disturbance across a residential real property boundary.

7. No person shall use or fire explosives, firearms or similar devices that create impulsive sound so as to create a noise disturbance across a real property boundary or on a public right-of-way except:
  - a. as otherwise permitted by the terms of a permit issued to the owner or operator pursuant to section 9.03.030;
  - b. or firearms lawfully discharged at the local shooting range or outside the restricted zone for discharging firearms.
8. No person shall load, unload, open, close or otherwise handle boxes, crates, containers, building materials, garbage cans or similar objects between the hours of 10:00 p.m. and 7:00 a.m. the following day in such a manner as to cause a noise disturbance across a residential real property boundary.
9. No person shall repair, rebuild, modify, idle, run, accelerate or test any motor vehicle or any auxiliary equipment attached to such vehicle in such a manner as to cause a noise disturbance across any residential real property boundary.
10. No person shall operate or cause to be operated on private property any source of sound in such a manner as to create a sound level that exceeds the limit set forth for the receiving land use category in table 1 when measured at or within the property boundary of the receiving land for any period of more than two consecutive minutes. This provision does not apply to the unamplified human voice and activities covered in section 9.03.020 (B)(2) pertaining to construction, 9.03.020 (B)(3) pertaining to power tools, 9.03.020 (B)(6) pertaining to stationary emergency signaling devices, 9.01.010 (B)(7) pertaining to explosives, firearms and similar devices.

**TABLE 1. SOUND LEVEL BY RECEIVING LAND USE**

<u>Receiving Land Use Category</u>	<u>Time</u>	<u>Sound Level Limit dB(A)</u>
Residential area	7:00 a.m. - 10:00 p.m.	70
	10:00 p.m. - 7:00 a.m.	60
Commercial area	7:00 a.m. - 10:00 p.m.	80
	10:00 p.m. - 7:00 a.m.	70
Industrial area	At all times	80

**9.03.030 Noise Permits.**

- A. The police chief or his designee shall have the authority consistent with this section to grant permits that may be requested pursuant to sections 9.03.020(B)(2) pertaining to construction, 9.03.020(B)(5) pertaining to public events or 9.03.020(B)(7) pertaining to explosives.**
- B. Any person seeking a noise permit shall file with the police department an application containing information that demonstrates that bringing the source of sound or activity for which the permit or variance is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, the community or other persons. Any person seeking a noise permit shall file application with the police department at least 20 days prior to the commencement of the noise for which the permit is requested. The police chief or his designee shall have authority to waive, consistent with administratively established criteria, the 20-day time requirement in order to expedite issuance of permits. For short-term permits having duration of 21 consecutive calendar days or less unless the police chief or his designee determines that there is a substantial potential for impact on the public may grant the permit. For long-term permits of longer than 21 consecutive calendar days or where the potential for impact on the public may exist, applications will be forwarded to the municipality to be heard by the assembly at the next scheduled assembly meeting.**
- C. In determining whether to grant or deny the application for a permit, the chief of police or his designee or the assembly shall balance the hardship on the applicant, the community and other persons not granting the permit against the adverse impact on health, safety and welfare of persons affected, the adverse impact on property affected and any other adverse impacts of granting the permit. Applicants may be required to either measure or allow the police department to measure the sound level from any source in accordance with the methods and procedures and at such locations and times as the police department or municipality may reasonably prescribe, to furnish reports of the results of such measurements to the police department and to require the measurements to be conducted in the presence of the police department enforcement officers. Applicants for a permit and persons contesting a permit may be required to submit any other information the municipality may reasonably require. In granting or denying an application, the municipality shall keep on public file a copy of the decision and the reasons for denying or granting the permit. No permit shall be granted for any source of sound or activity that violates or would violate any provision of federal or state law or any provision of any other chapter of this title or this code.**
- D. Permits shall be granted by notice to the applicant containing all necessary conditions, including as part of any permit a time limit on the permitted activity. The permit shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of a permit shall terminate the permit and subject the person holding it to those provisions of this title regulating the source of sound for which the permit was granted.**

- E. Application for extension of time limits specified in permits or for modification of other substantial conditions shall be treated like applications for initial permits under subsection C of this section.
- F. No permit shall be granted to this section for an initial period longer than one year.
- G. Penalties for violations to this chapter shall be established by resolution of the assembly, and shall become a part of this section by incorporation by reference.


**Section 6. 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 7. Effective Date.** This ordinance shall become effective immediately upon adoption.

**PASSED AND APPROVED** by a duly constituted quorum of the Borough Assembly of the Municipality of Skagway this 12<sup>th</sup> day of May, 2011.

  
Thomas D. Cochran, Mayor

ATTEST:

  
Emily A. Deach  
Municipal Clerk

(SEAL)

