

Proposed by:	Administration
First Reading:	04/17/2014
Second Reading:	05/01/2014
Vote:	6 Aye 0 Nay 0 Absent

**MUNICIPALITY OF SKAGWAY, ALASKA
ORDINANCE NO. 14-10**

AN ORDINANCE OF THE MUNICIPALITY OF SKAGWAY, ALASKA AMENDING TITLE 1 GENERAL PROVISIONS BY AMENDING CHAPTER 1.20 GENERAL PENALTY TO PROVIDE THAT VIOLATIONS OF MUNICIPAL CODE ARE SUBJECT TO A CIVIL FINE; AND ESTABLISHING AN ADMINISTRATIVE APPEAL PROCESS FOR VIOLATIONS OF MUNICIPAL CODE.

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 Chapter 1.20 General Penalty to provide that violations of municipal code are subject to a civil fine; and establishing an administrative appeal process for violations of municipal code.

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. Chapter 6.04 Animals Running at Large is hereby amended as follows:

Chapter 1.20
GENERAL PENALTY

Sections:

1.20.010 Integration into other enactments.

1.20.020 Person defined.

1.20.030 Violations--Separate offenses.

1.20.035 Administrative appeal for civil fines.

~~1.20.040 Penalties for false alarms, burglary/intrusion, robbery.~~

1.20.010 Integration into other enactments.

A. This penalty provision shall be considered as an integral and organic part of every ordinance, regulation and order that does not contain a specific penalty clause.

B. In addition to the fines and penalties described above, the violator shall pay all collection and legal costs incurred in collection of a fine or penalty exclusive of the costs of prosecution in the event a citation has been issued; and the costs of mailing the notice.

C. Collection of fines, penalties and costs. A violator of any of the ordinances described in (A) above who has failed to pay all fines, penalties, late payment fees, and costs described in this section shall, upon the expiration of any time for appeal, be indebted to the municipality in the amount of such fines, penalties, late payment fees, and costs. In addition to or in lieu of any other provision for collection of such fines, penalties, late payment fees, and costs, the municipality may collect these amounts as a debt and may use such collection services and methods as are determined by the borough manager.

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1.20.020 Person defined.

"Person," as used in penalty provisions throughout this code, includes the officers and any stockholders having more than a thirty percent (30%) interest of a corporate defendant.

1.20.030 Violations--Separate offenses.

- A.** Every act prohibited by this code is unlawful. Unless another penalty is expressly provided by this code for any particular provision or section, each violation of this code is a non-criminal infraction, punishable by a civil **fine established by resolution** ~~penalty up to three hundred dollars (\$300.00)~~ per violation. Each act or violation and every day upon which a violation occurs or continues constitutes a separate offense.
- B.** **Failure to contact the Skagway Police Department within ten (10) days of the date of the notice of violation and arrange a payment schedule for the fine acceptable to the Police Department, or to pay the fine for a violation within ten (10) days of the date of the notice of violation, or to file an appeal of a notice of violation within ten (10) days of the date of the notice of violation, will result in an additional fee in the amount of the civil fine.**

1.20.035 Administrative appeal for civil fines.

- A.** **Right to appeal and time for appeal. Any person(s) who have been issued a notice of violation may appeal the notice of violation by filing an appeal with the borough manager within ten (10) days of the date of the notice of violation. The borough manager shall prepare appeal forms which the appellant may use.**
- B.** **Hearing officer. The borough manager or such person(s) as the borough manager may designate shall serve as hearing officer for notice of violation appeals and shall have authority to decide such appeals.**
- C.** **Contents of appeal. An appeal must be in writing and contain the following information:**
- 1. Name and mailing address of the appellant;**
 - 2. Number or other sufficient identification of the notice of violation;**
 - 3. Statement of the reasons for the appeal;**
 - 4. Any facts, documents, photographs, witness statements, or other evidence supporting the appeal; and**
 - 5. Statement as to whether the appellant requests a hearing before a hearing officer, or whether the appeal can be decided without a hearing. If the appellant waives hearing, the hearing officer may decide the appeal based on the written statements of the appellant, the issuing officers and any witnesses as contained in the notice or other written reports.**
- D.** **Administrative Hearing Procedures.**
- 1. Date of Hearing. Unless otherwise agreed to by the appellant and the hearing officer, a hearing requested under this section shall be held no later than fifteen (15) business days from the date the written notice of appeal is filed with the borough manager.**
 - 2. Procedure. The hearing shall be conducted informally and may be governed by such rules as the hearing officer may choose to establish, except that:**
 - a. Parties may appear in person or through counsel;**

- b. Parties may present witnesses and evidence on their own behalf and witnesses may be cross-examined;
 - c. The hearing is not governed by the formal rules of evidence. The hearing officer may consider evidence that the officer reasonably deems to be both relevant and material to the contested issues;
 - d. All hearings shall be open to the public;
 - e. The hearing shall be memorialized by electronic recording or stenographic record;
 - f. Failure of the appellant to appear at a hearing requested by the appellant shall waive all right to a hearing and shall render the amount of the fine due and owing.
3. Scope of Review. The hearing officer's decision shall be based on the law and facts applicable to the case. The hearing officer may exercise independent judgment and reasonable discretion, applied in a consistent manner, in deciding appeals and may affirm, modify, or dismiss the notice of violation.
4. Decision. No later than ten (10) business days following the hearing, the hearing officer shall issue a written decision setting out the hearing officer's findings and conclusions. The decision should also include the following statement: "This is the final decision of the Municipality of Skagway and a party disputing this decision has thirty (30) days from the date this decision was mailed or distributed to file an appeal with the Superior Court for the State of Alaska, First Judicial District at Juneau, Alaska, in accordance with the Alaska Rules of Appellate Procedure." The decision shall be mailed or otherwise distributed to all parties to the appeal.
5. Judicial Appeal. The decision of the hearing officer may be appealed to the Superior Court for the State of Alaska, First Judicial District at Juneau, Alaska, in accordance with the Alaska Rules of Appellate Procedure.

~~1.20.040 Penalties for false alarms, burglary/intrusion, robbery.~~

~~A. False alarms, as determined in writing by the Police Chief or a designated representative, shall be charged for as follows:~~

_____	First False Alarm:	_____	Written Warning
_____	Second False Alarm:	_____	\$200.00
_____	Third and subsequent false alarms	_____	\$300.00

~~B. Penalties may be imposed by the Police Chief or a designated representative for malicious and/or repetitive alarm signals which are determined false.~~

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.

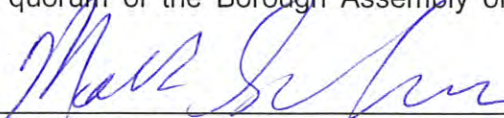
Section 5. Effective Date. This ordinance shall become effective immediately upon adoption.

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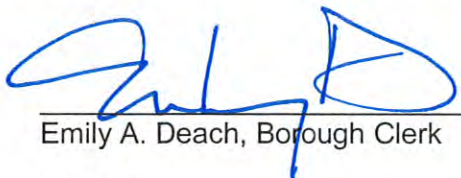
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PASSED AND APPROVED by a duly constituted quorum of the Borough Assembly of the Municipality of Skagway this 1st day of May, 2014.



Mark Schaefer, Mayor

ATTEST:



Emily A. Deach, Borough Clerk

(SEAL)

