

Proposed by:	Administration
Attorney Review:	03/15/2014
Public Safety Review:	03/26/2014
First Reading:	04/03/2014
Second Reading:	04/17/2014
Vote:	6 Aye 0 Nay 0 Absent

**MUNICIPALITY OF SKAGWAY, ALASKA
ORDINANCE NO. 14-04**

AN ORDINANCE OF THE MUNICIPALITY OF SKAGWAY, ALASKA AMENDING TITLE 6 ANIMALS BY AMENDING CHAPTER 6.04 ANIMALS RUNNING AT LARGE, AND CHAPTER 6.06 LICENSING OF DOGS, TO PROVIDE THAT VIOLATIONS OF THESE CHAPTERS ARE SUBJECT TO A CIVIL FINE; AND ESTABLISHING AN ADMINISTRATIVE APPEAL PROCESS FOR VIOLATIONS OF THESE CHAPTERS.

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 6.04 Animals Running at Large and Chapter 6.06 Licensing of Dogs to provide that violations of these chapters are subject to a civil fine; and establishing an administrative appeal process for violations of these chapters.

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 6.04
ANIMALS RUNNING AT LARGE

Sections:

- 6.04.010 Running at large prohibited.
- 6.04.020 Control of dogs.
- 6.04.030 Impoundment procedure.
- 6.04.040 Notice of violation.
- 6.04.050 Impound fees.
- 6.04.060 ~~Disposal of impounded animals.~~ **Administrative appeal.**
- 6.06.070 Disposal of impounded animals.**

6.04.010 Running at large prohibited.
A. It is unlawful for the owner of any domestic animal to allow the animal to run at large in the municipality. The owner of an animal cited for running at large shall be charged a fee as **subject to a civil fine** established by resolution of the borough assembly.

6.04.050 Impound fees.
A. For every animal taken up and impounded or for which a notice of violation has been issued as provided in this chapter, any person desiring to redeem such

animal shall pay the municipality the total of the fees, as established by resolution, for impoundment, care and feeding and veterinary care, if any.

- B. Payment of the fees provided in this section shall be exclusive of and in addition to any penalties imposed by reason of violation of any provision of this title.
- C. Failure to contact the Skagway Police Department within five (5) 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 five (5) 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.**

6.04.060 Administrative appeal.

- A. Right to Appeal and Time for Appeal. Any persons 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.

6.04.060070 Disposal of impounded animals.

Any animal which has been impounded may be redeemed during the first three (3) days thereafter by any person claiming to own or act for the owner of the animal, upon payment of the fees and costs as set forth in Section 6.04.050. At the expiration of the first three days, if the animal has not been redeemed as above for another two days, the animal may be redeemed by any person upon payment of the fees and costs as set forth in Section 6.04.050 minus impoundment fees, or such animal shall be subject to disposal by the municipality by any of the following means:

1. The animal may be offered for sale at a price fixed by the animal control officer; or
2. The animal may be released by the animal control officer to any person who pays the fees required by Section 6.04.050 or such portion thereof as the animal control officer may require; or
3. The police chief may release the animal to any other organization for such disposition as he may see fit; provided, however that no animal shall be given or sold to any person or association for vivisection purposes; or
4. The animal may be killed by any humane method.

Section 4. 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 6.06 Licensing of Dogs is hereby amended as follows:

LICENSING OF DOGS

Sections:

- 6.06.010 Annual license required.
- 6.06.020 Application for license.
- 6.06.030 Term of license.
- 6.06.040 License fee.
- 6.06.050 Dog collar and license tag.
- 6.06.060 Change in ownership.
- 6.06.070 Lost tag replacement fee.
- 6.06.080 Penalties.**
- 6.06.090 Administrative appeal.**

6.06.010 Annual license required.

It is unlawful to keep or harbor a dog over six (6) months of age within the borough limits unless a dog license has been procured for the dog from the municipality. **Any owner who fails to do so will be subject to a civil penalty established by resolution.**

6.06.020 Application for license.

Application for a dog license shall be made annually in January, upon forms provided by the police department. The application shall list the name, address and phone number of the owner; the name, breed, color, age and sex of each dog owned or harbored by him, and shall be accompanied by proof of a current rabies shot and such other medical and vaccination information and data as may be required. Such information shall be kept, conveniently indexed, by the police department together with the number of the license issued.)

6.06.080 Penalties.

- A. Violations of provisions of this chapter shall be noncriminal infractions, punishable by a civil fine established by resolution.**
- B. Failure to contact the Skagway Police Department within five (5) 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 five (5) 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.**

6.06.090 Administrative appeal.

- A. Right to Appeal and Time for Appeal. Any persons 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) 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) days following the hearing, the hearing officer shall issue a written decision setting out the hearing officer's findings and conclusions so as to provide a clear understanding of the reasons for the decision entered. 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.

MUNICIPALITY OF SKAGWAY, ALASKA

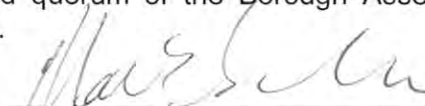
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Section 5. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

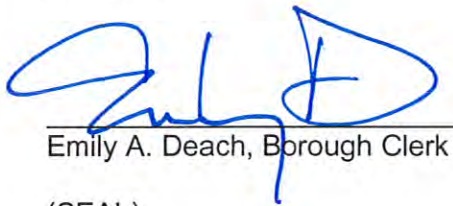
Section 6. Effective Date. This ordinance shall become effective immediately upon adoption.

PASSED AND APPROVED by a duly constituted quorum of the Borough Assembly of the Municipality of Skagway this 17th day of April, 2014.



Mark Schaefer, Mayor

ATTEST:



Emily A. Deach, Borough Clerk

(SEAL)

