

Proposed by:	Administration
Attorney Review:	05/13/2013
First Reading:	05/02/2013
Second Reading:	05/17/2013
Vote: 6 Aye	0 Nay      0 Absent

**MUNICIPALITY OF SKAGWAY, ALASKA  
ORDINANCE NO. 13-13**

**AN ORDINANCE OF THE MUNICIPALITY OF SKAGWAY, ALASKA AMENDING TITLE 10 VEHICLES AND TRAFFIC CODE BY AMENDING SECTION 10.02.070 PARKING RESTRICTIONS TO PROVIDE THAT PARKING VIOLATIONS ARE SUBJECT TO A CIVIL FINE; PROVIDING FOR THE CONTENT OF NOTICE OF VIOLATION OF PARKING RESTRICTIONS; AND ESTABLISHING AN ADMINISTRATIVE APPEAL PROCESS FOR PARKING VIOLATIONS.**

**WHEREAS**, as of April 15, 2013, the Alaska Court System will only process citations issued directly to a person by a police officer; because parking citations are not issued directly to a person and may be issued by affixing a notice of violation to the vehicle, the Alaska Court System will no longer process those citations; and

WHEREAS, the Alaska Uniform Traffic Laws Act in AS 28.01.010(i) requires that municipalities establish an administrative appeal procedure for contesting parking citations that are not processed by the Alaska Court System; and

**WHEREAS**, the Skagway Municipal Code should be amended to bring current practice on the municipal parking citation process into line with State law and administrative procedures;

**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 Title 10 by amending section 10.02.070 Parking restrictions to make a parking violation subject to a civil fine, and adding new sections to set out the content of a notice of violation of parking restrictions and to establish an administrative appeal procedure for contesting parking violations, in order to bring municipal code into line with state law and administrative procedures regarding the processing of parking citations.

**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. Municipal code section 10.02.070 Parking restrictions is amended as follows:

- 10.02.070      Parking restrictions.
  - A.      State Provisions Adopted. The Municipality of Skagway has adopted by reference Chapter 2, Article 8 of Title 13 of the Alaska Administrative Code, which includes Sections 13 AAC 02.340 through 13 AAC 02.377 (stopping, standing, and parking) excluding all references to snow removal and loading zones, 13 AAC 02 Article 8, Section 367 (loading zones), and 13 AAC 02 Article 11, Section 480 (unattended motor vehicle), which will be enforced within the municipality.
  - B.      Narrow Streets or Highways.

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1. The chief of police is authorized to erect signs indicating "no parking" upon any street or highway when the width of the roadway does not exceed twenty-six feet (26'), or upon one (1) side of a street or highway as indicated by such signs when the width of the roadway does not exceed thirty-five (35) feet.
2. When official signs prohibiting parking are erected upon narrow streets or highways as authorized herein, no person shall park a vehicle upon any such street or highway in violation of any such sign.
- C. Restricted Use of Parked Vehicles. It is unlawful for any parked vehicle to be utilized to provide temporary sleeping or living quarters for the occupants:
  1. While parked on any public street within the municipality;
  2. While parked on any public or private property within the municipality, except designated campgrounds, without the express permission of the property owner or person having control over the property.
- D. Restricted Parking, Timed Parking, Loading and Drop Off Zones. The borough assembly shall from time to time establish restricted parking, timed parking, loading, drop off zones and other parking regulations by resolution.
  1. Loading zones time limits; active loading/unloading of freight or passengers for up to 30 minutes.
  2. For all areas not signed for timed parking, operative vehicles are allowed to park on public streets for no more than 30 days without movement.
  3. Exception given when owner has applied for a ~~one-time~~ **one-time** 30 day extended permit issued by the police department.
  4. No trailer shall be parked on any street or highway right-of-way within the Municipality of Skagway for a longer period of time than 24 hours at any one time.
- E. Oversized Vehicles. Vehicles in excess of nineteen feet (19') shall be prohibited from parking on Broadway Street between 2nd and 7th Avenues.
- F. Commercial vehicles. Commercial vehicles prohibited from parking overnight on municipal streets. The owner or operator of any commercial enterprise involving use of commercial vehicles shall provide and utilize off-street parking in an appropriately zoned area in compliance with SMC 19.08.020 adequate to park all vehicles used by that enterprise for commercial purpose.
- G. **Parking violations; civil fines. Commercial vehicle parking fines violations shall be subject to a civil fine. The assembly shall establish a parking violation fine schedule by resolution.** ~~shall be established resolution of the assembly.~~
- H. Failure to contact ~~court~~ **the Skagway Police Department within five (5) days of the date of the notice of violation and arrange an payment schedule for the fine acceptable to the Police Department, or to pay the fine for a parking violation citations within 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 will be added.** ~~double the fine.~~

**Section 4. New Section.** The Skagway Municipal Code is hereby amended by adding a new Section 10.02.080 on Notice of Violation of Parking Restrictions, as follows:

**10.02.080. Notice of Violation of Parking Restrictions.**

- A. A notice of violation of parking restrictions set out in Section 10.02.070 may be issued by affixing a notice of violation to the vehicle that is parked in violation. The notice of violation shall include the following:**
- 1. A brief description of the violation;**
  - 2. The registration number and/or other identification of the vehicle, if available;**
  - 3. The date and approximate time and place of the violation;**
  - 4. The civil fine for the violation;**
  - 5. The municipal office where the fine must be paid;**
  - 6. Statement that unless within five (5) days of the date of the notice of violation the Skagway Police Department is contacted and an arrangement is made for payment of the fine acceptable to the Police Department, or the fine is paid within five (5) days of the date of the notice, or an appeal is filed within ten (10) days of the date of notice, an additional fee in the amount of the civil fine will be added;**
  - 7. Statement that a notice of violation may be appealed, the office where such an appeal must be filed, and the time for filing an appeal;**
  - 8. Statement that timely payment, or acceptable arrangement for payment, of the fine or will waive all rights to appeal the notice of violation; and**
  - 9. Statement that failure to timely appeal will be deemed an admission of the violation and will waive all right to appeal or contest the notice of violation.**

**Section 5. New Section.** The Skagway Municipal Code is hereby amended by adding a new Section 10.02.090 establishing an Administrative Appeal process for contesting a notice of violation of parking restrictions, as follows:

**10.02.090 Administrative Appeal.**

- A. Right to Appeal and Time for Appeal. The registered owner of a vehicle which has been issued a notice of violation of parking restrictions 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 manager shall prepare appeal forms which appellant may use.**
- B. Hearing Officer. The borough manager or such person(s) as the 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. Description of the vehicle;**
  - 4. Statement of the reasons for the appeal;**
  - 5. Any facts, documents, photographs, witness statements, or other evidence supporting the appeal; and**
  - 6. 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, and the hearing officer's own observations.

**D. Administrative Hearing Procedures.**

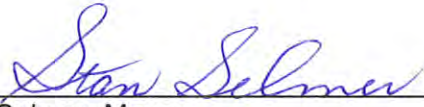
- 1. Date of Hearing. Unless otherwise agreed by the appellant and the hearing officer, a hearing requested under this section shall be held no later than fifteen (15) days from the date the written notice of appeal is filed with the borough manager.**
- 2. Procedure. The hearing shall be conducted informally 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 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.**

**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.

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**PASSED AND APPROVED** by a duly constituted quorum of the Borough Assembly of the Municipality of Skagway this 17th day of May, 2013.

  
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Stan Selmer, Mayor

ATTEST:

  
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Emily A. Deach, Borough Clerk

(SEAL)

