

Proposed by:	Civic Affairs Committee
Attorney Review:	11/25/2011
First Reading:	12/16/2011
Second Reading:	01/05/2012
Vote: 6 Aye	0 Nay 0 Absent

**MUNICIPALITY OF SKAGWAY, ALASKA  
ORDINANCE NO. 11-31**

**AN ORDINANCE OF THE MUNICIPALITY OF SKAGWAY, ALASKA AMENDING TITLE 15 BUILDINGS AND CONSTRUCTION BY AMENDING CHAPTER 15.02 THROUGH CHAPTER 15.16.**

**WHEREAS,** Amendments are required to address change in status from city to borough government; and

**WHEREAS,** the Civic Affairs Committee is conducting a review of the Municipal Code in conjunction with the code re-write to update the 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 Title 15, Buildings and Construction by amending Chapter 15.02 Standards for Construction and Modification of Buildings, Chapter 15.04 Standards for Occupancy and Use of Buildings, Chapter 15.08 Fire Prevention Code, Chapter 15.10, Building Numbering System, Chapter 15.12 Flood Zone Land Use, Chapter 15.14 Mobile Homes and Chapter 15.16 General Provisions.

**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 15.02 Standards for Construction and Modification of Buildings, Chapter 15.04 Standards for Occupancy and Use of Buildings, Chapter 15.08 Fire Prevention Code, Chapter 15.10, Building Numbering System, Chapter 15.12 Flood Zone Land Use, Chapter 15.14 Mobile Homes and Chapter 15.16 General Provisions are hereby amended as follows.

Chapter 15.02

STANDARDS FOR CONSTRUCTION AND MODIFICATION OF BUILDINGS

Sections:

- 15.02.010 Building Code adopted.
- 15.02.020 Electrical Code adopted.
- 15.02.030 Mechanical Code adopted.
- 15.02.040 Plumbing Code adopted.
- 15.02.050 Overhangs of Public Rights of Way.

- 15.02.010 Building Code adopted.
  - A. For the purpose of regulating the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures or portions thereof in the municipality; there is hereby adopted by reference, as the Building Code of the municipality, the 2006 edition of that certain compilation of rules and

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regulations prepared and published by the International Conference of Building Officials, entitled "International Building Code, excluding Chapter 27," and "International Residential Code," and which compilation is made part of this section as if fully set forth herein. Where the IBC refers to the International Electrical Code (IEC), read as NEC. One copy has been filed in the office of the borough ~~building inspector~~ **permitting official**; one copy has been filed in the office of the Fire Department; and one copy has been filed with the Skagway Public Library for public use, inspection and examination. **The municipality may adopt and amend the latest editions of international building and residential codes pending review by the permitting official and approval by the borough assembly.**

- B. Projecting signs within the Skagway Historic District are an exception to the currently adopted municipal building code if they meet the criteria established in 19.08.012(A)(7)(b).

15.02.020 Electrical Code adopted.

For the purpose of regulating the construction, reconstruction, addition, enlargement, conversion, equipment, use and maintenance of all electrical wiring and devices within and without all buildings and structures within the municipality, there is hereby adopted, as the Electrical Code of the municipality the 2005 edition of that certain compilation of rules and regulations prepared and published by the National Fire Protection Association, entitled "National Electrical Code," and which compilation is hereby made a part of this section as if fully set forth herein. One copy has been filed in the office of the borough ~~clerk~~ **permitting official**; one copy has been filed in the office of the Fire Department; and one copy has been filed with the Skagway Public Library for public use, inspection and examination. **The municipality may adopt and amend the latest edition of national electrical code pending review by the permitting official and approval by the borough assembly.**

15.02.030 Mechanical Code adopted.

For the purpose of regulating the construction, reconstruction, addition, enlargement, conversion, equipment, use and maintenance of all heating, ventilating, cooling and refrigeration systems within and without all buildings and structures within the municipality; there is here adopted as the Mechanical Code of the municipality, the 2006 edition of that certain compilation of rules and regulations prepared and published jointly by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials, which compilation is entitled "International Mechanical Code," and the "International Fuel Gas Code," and which compilation is hereby made a part of this section as if fully set forth herein. One copy has been filed in the office of the borough ~~building inspector~~ **permitting official**; one copy has been filed in the office of the Fire Department; and one copy has been filed with the Skagway Public Library for public use, inspection and examination. **The municipality may adopt and amend the latest editions of international mechanical code and fuel gas code pending review by the permitting official and approval the borough assembly.**

15.02.040 Plumbing Code adopted.

For the purpose of regulating the construction, reconstruction, addition, enlargement, conversion, equipment, use and maintenance of all plumbing within and without all buildings and structures and portions thereof within the municipality; there is hereby adopted by reference as the Plumbing Code of the municipality, the 2006 edition of that certain compilation of rules and regulations prepared and published by the International Association of Plumbing and Mechanical Officials, which compilation is known as the "International Plumbing Code," and

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which compilation is hereby made a part of this as if fully set forth herein. One copy has been filed with the office of the borough ~~building inspector~~ **permitting official**; one copy has been filed in the office of the Fire Department; and one copy has been filed with the Skagway Public Library for public use, inspection and examination. **The municipality may adopt and amend the latest edition of international plumbing code pending review by the permitting official and approval the borough assembly.**

15.02.050 Overhangs of Public Rights-of-Way.

Purpose: to regulate the space over public streets, sidewalks and alleys, and maintain uniformity of construction.

- A. Except as provided in SMC 19.08 and Subsection 1 below, no part of any structure constructed after February 20, 1997 or any appendage thereto shall project onto any right of way except:
  - 1. Oriel windows, balconies, sun-control devices, unroofed porches, cornices, belt courses and appendages such as water tables, sills, capitals, bases and architectural projections may project over the public property of the building site a distance as determined by the clearance of the lowest point of the projection above the grade immediately below as follows:
    - a. Clearance above grade less than eight feet (8') – no projection is permitted.
    - b. Clearance above grade over eight feet (8') – one inch (1") of projection is permitted for each additional inch of clearance, provided that no such projection shall exceed a distance of four feet (4').
- B. There shall be no overhang of any part of any structure into an alley including but not limited to weather heads, meters or meter bases, eaves, embellishments, porches, awnings, signs, vents or trim.
- C. Interference with overhead utilities: Conformance with this section does not in any way circumvent requirements for separation between structures and overhead utilities. Any overhang of a public right-of-way must be in accordance with the provisions of the appropriate electrical codes. Electrical, telecommunication and cable utilities shall be informed of any plan to build over a public right-of-way.

Chapter 15.04

STANDARDS FOR OCCUPANCY AND USE OF BUILDINGS

Sections:

15.04.010 Housing Code adopted.

15.04.010 Housing Code adopted.

- A. For the purpose of regulating the occupancy, habitation and use of all residential buildings and structures within the municipality, there is hereby adopted, as the Housing Code of the municipality; the 2006 edition of that certain compilation of rules and regulations prepared and published by the International Conference of Building Officials, which compilation is entitled "International Residential Code," and which compilation is hereby made a part of this section as if fully set forth herein. One copy has been filed in the office of the borough ~~building inspector~~ **permitting official**; one copy has been filed in the office of the Fire Department;

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and one copy has been filed with the Skagway Public Library for public use, inspection and examination.

- B. The five (5) member board of appeals established by the International Residential Code shall consist of any five (5) persons currently serving as mayor or members of the borough assembly.

Chapter 15.08  
FIRE PREVENTION CODE

Sections:

- 15.08.010 Fire Prevention Code adopted.  
15.08.020 Enforcement.  
15.08.025 Urbanized area  
15.08.030 Prohibited materials storage.  
15.08.040 Minimum fire protection requirements for buildings in the urbanized area.  
15.08.050 Exemptions and modifications.  
15.08.055 Open Burning.  
15.08.060 Penalties.

15.08.010 Fire Prevention Code adopted.

- A. For the purpose of regulating conditions hazardous to life and property from fire or explosion, there is hereby adopted by reference, as the Fire Prevention Code of the municipality; the 2006 edition of that certain compilation of rules and regulations published by the International Conference of Building Officials known as the "International Fire Code," and which compilation is hereby made a part of this section as if fully set forth herein. One copy has been filed with the office of the borough permitting official; one copy has been filed in the office of the Fire Department; and one copy has been filed with the Skagway Public Library for public use, inspection and examination.
- B. The five (5) member board of appeals established by the International Fire Code shall consist of any five (5) persons currently serving as mayor or members of the borough assembly.

15.08.020 Enforcement.

The chief of the fire department (fire chief) shall be responsible, under the direction of the borough manager, for enforcement of the provisions of this chapter.

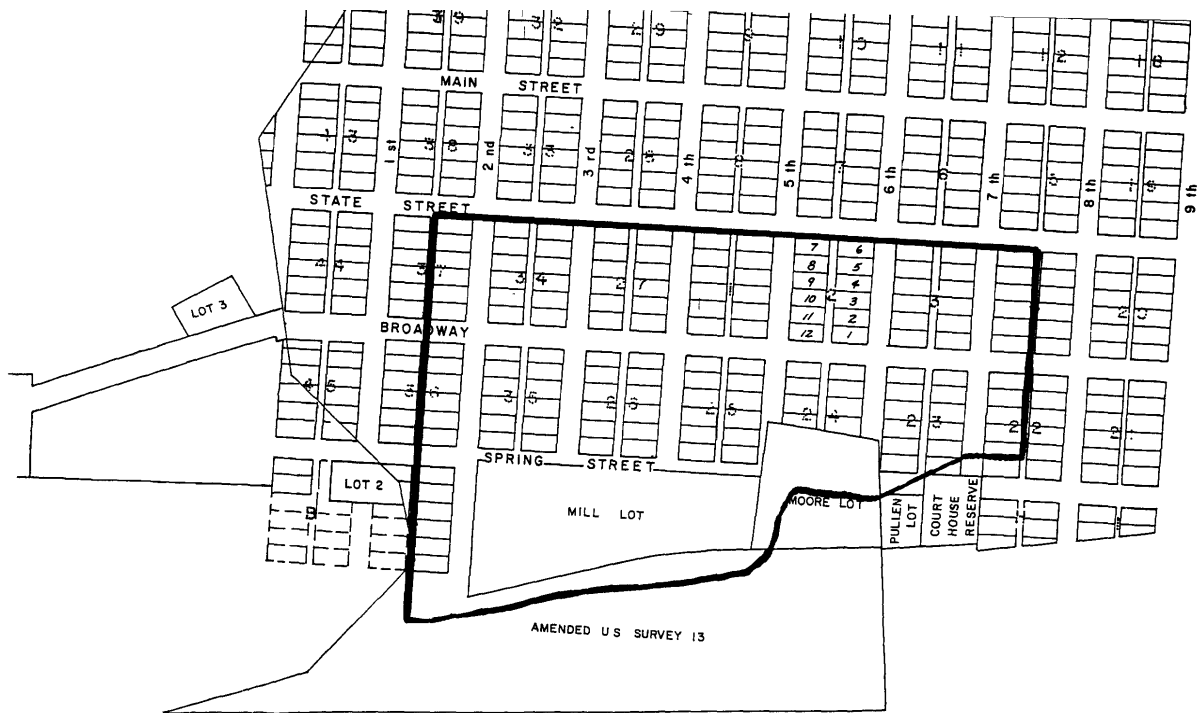
15.08.025 Urbanized area

- A. Urbanized Area Defined. "Urbanized area" means that geographic area of the municipality defined by the following boundaries:
- Begin at a point at the intersection of the alley between 7th and 8th Avenues and the east side of State Street;
  - thence in a southerly direction to the alley located between First and Second Avenues and State Street;
  - thence easterly to Pullen Creek; then along Pullen Creek to the center of the alley between 7th and 8th Avenues; and
  - thence westerly to the point of beginning.

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- 15.08.030 Prohibited materials storage.
- A. Prohibited Storage. Within the urbanized area, storage of the following materials is prohibited:
1. Explosives and blasting agents;
  2. Bulk storage of flammable liquids in outside above ground tanks; and
  3. Bulk storage of liquefied petroleum gas.
- 15.08.040 Minimum fire protection requirements for buildings in the urbanized area.
- A. The following minimum fire protection requirements are in addition to those provided in the International Fire Code and shall apply to buildings within the urbanized area, as defined in subsection A of Section 15.08.025.
1. All commercial and mixed occupancy buildings in excess of five hundred (500) square feet in total floor area in existence on January 1, 1991, shall have installed by January 1, 1992 an automatic alarm notification system connected to municipal dispatch center in accordance with the National Fire Protection Association standards 71, 72A and 72E (2006 Edition). Commercial and mixed occupancy buildings permitted for construction subsequent to January 1, 1991 shall have such systems installed prior to occupancy.
  2. Building owner(s) are responsible for the continued operation and maintenance of the fire protection system requirements as stated within these codes. Unauthorized disconnection and/or delinquent accounts which may include water, telephone and electric utilities will be charged a separate daily fee of one hundred dollars (\$100.00) until reconnected.

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3. Exemptions or modifications to the requirements of this section shall be allowed only by issuance of a written exemption or modification to the owner of those buildings which, as determined in writing by the building official, meet one of the following conditions:
    - a. Commercial and mixed occupancy buildings of less than five hundred (500) square feet in total floor area.
    - b. Buildings in which there is an automatic fire extinguishing system installed in conformance with NFPA Standard 13, provided the system is in operation year-round with the extinguishing system alarm connected to the fire department alarm panel.
    - c. Buildings that are unused, secure from unauthorized entry and with no electrical service from the electrical pole to the building. "Unused" shall mean any building not serviced by utilities and protected from unauthorized entry for the previous twelve (12) months. Reconnection of the automatic alarm notification system to municipal dispatch center shall be charged for at the rate of three hundred dollars (\$300.00).
    - d. Buildings used as one (1) or two (2) family dwellings.
    - e. Private garages accessory to one (1) or two (2) family dwellings.
  - B. Alarm notification systems may be temporarily disconnected only under the following conditions:
    1. When the alarm system is undergoing maintenance.
    2. The fire department shall be notified prior to disconnection of an alarm system and upon restoration of alarm system functions.
  - C. Continued use of commercial and mixed occupancy buildings in excess of five hundred (500) square feet of total floor area within the urbanized area without a fully operable electronic fire warning system in conformance with published standards shall be deemed a violation of this code section; and the building owner, upon conviction, shall be subject to the penalty provisions of this chapter. Each separate building may give rise to a separate violation, and each day during which a building remains in use without a fully conforming electronic fire warning system shall be a separate violation.
  - D. Extinguishing Systems. Automatic fire-extinguishing systems shall be installed in accordance with National Fire Protection Association Standard Number 13 in all new construction in excess of five hundred (500) square feet in total floor area. For the purpose of this section, "new construction" shall include additions in excess of five hundred (500) square feet in total floor area to existing buildings. Such additions, if required to be protected by fire-extinguishing systems, shall not impose a requirement to install fire-extinguishing systems in the existing building. Fire-extinguishing systems shall not be required when an existing building is altered or repaired, unless such alteration results in an increase in total floor area in excess of five hundred (500) square feet.
  - E. All commercial structures in the business historic district shall be protected by automatic fire-extinguishing systems in conformance with National Fire Protection Association Standard Number 13 before the end of fiscal year 2013.
- 15.08.050 Exemptions and modifications.
- A. The fire chief is authorized to grant temporary exemptions from or modifications to provisions of the International Fire Code in individual instances, provided the applicant shows (and the fire chief determines) that:

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1. There are practical difficulties in complying with the strict letter of the Code; and
  2. If the specific exemption or modification is granted, there will nevertheless be substantial compliance with the Code, the public safety will be protected, and substantial justice done.
- B. When an exemption or modification is granted or denied, the fire chief's decision and his reasons shall be entered upon the department's records, and a signed copy furnished to the applicant. The fire chief's decision is subject to appeal to the borough assembly within thirty (30) days after issuance of the fire chief's decision. **The appeal shall be limited to the written record upon which the fire chief made the decision. The Assembly shall give due deference to the decision of the fire chief.**

15.08.055 Open burning.

A. Definitions.

1. "Burn" is defined as causing, initiating and/or maintaining flaming combustion of solid or liquid fuels, whether in an enclosed incinerator, in a burn barrel or in an unenclosed pile.
2. "Open burning" is defined as the burning of material which results in the products of combustion being emitted directly into the ambient air without passing through a stack or flue.
3. "Burn permit" is defined as permission to burn, obtained from the fire department administrative office.
4. "Municipal burn ban" is defined as a ban against burning in the Municipality due to dry or unsafe conditions; this ban can be implemented by the fire chief, fire marshal or designee. Such bans may be established Municipality wide or may be modified for specific open burning activities as fire conditions dictate.
5. "Smolder" means to burn and smoke without flames.
6. "Putrescible garbage" is described as material that can decompose and cause obnoxious odors.

B. General requirements.

A person conducting open burning must insure that:

1. The material is kept as dry as possible through the use of a cover or dry storage;
2. Before igniting the burn, noncombustibles are separated to the greatest extent practicable;
3. Natural or induced draft is present;
4. To the greatest extent practicable, combustibles are separated from grass or peat layer;
5. Combustibles are not allowed to smolder or emit excessive smoke.

C. Restrictions.

1. No person may engage in the open burning of any material except as authorized by a valid open burning permit. Open burning permits may be issued by the fire chief or the fire chief's designee upon application.

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2. It is unlawful to conduct open burning during a "municipal burn ban", unless the open burn activities are done in accordance with any modifications to the ban in effect.
3. Open burning which creates a danger to public health or safety will not be allowed.
4. Open burning activities must be limited to ordinary combustibles such as paper, wood debris, or natural fibers.
5. No person may cause or allow the open burning of: Asphalt, rubber, plastic, tar, wire insulation, petroleum products, petroleum-based products, petroleum-treated products, automobile parts, treated lumber, oily waste, contaminated oil clean up material, putrescible garbage, animal carcasses or any other materials that may produce black smoke.
6. It is unlawful to conduct the open burning of trash, waste, rubbish, refuse, slash, construction scraps, grass or weeds within the Municipality unless the person attending the burn complies with the rules set forth in the burn permit application and the following requirements:
  - a. The attendant has obtained a Municipal burn permit;
  - b. The attendant has notified the Police Department before the burn starts;
  - c. The attendant must burn according to permit conditions;
  - d. The attendant must observe all burning restrictions;
  - e. The attendant is over the age of fourteen years old;
  - f. The attendant watches the open burn until it ceases to flame;
  - g. The attendant must be able bodied enough to endure the strenuous activities involved with trying to control the fire while suppression forces arrive in case of an emergency;
  - h. The attendant must not be under the influence of alcohol or drugs;
  - i. The attendant must be able to call for assistance in the event of a problem;
  - j. The open burn is no closer than ten feet to any structure;
  - k. The attendant prevents the spread of fire to any other structure or property;
  - l. The attendant has a sufficient water supply to extinguish the open burn; or is equipped with a firefighting tool such as a shovel, heavy duty rake, wet gunny sack, hose.

**D. Permit.**

The permit, if issued, shall only be valid during the calendar year in which it was obtained; shall have a specified location and expiration date. The fire chief may refuse issuance to any applicant at any time.

**E. Liability.**

The Municipality, or the fire chief, shall be saved harmless and free from all liabilities, claims, demands, suits, judgments and actions of any nature whatsoever arising out of issuing the burning permit. The property owner will be liable for any damages resulting from the open burn.

**F. Enforcement.**



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When complaints regarding open burning are received by the Police Department or the Fire Department, the Police Department will be sent out to investigate the complaint. If the Police Department finds the open burn to be in violation of the Municipal Code or burn permit, the Police Department will ask that the fire be extinguished or the Fire Department will be called to extinguish it. A citation may be issued to the violator in accordance with SMC 15.08.060 (A). The fire chief or his designee may, at their discretion, revoke the right to obtain a burn permit for up to one calendar year as a result of infractions or violations to this code.

G. Exceptions.

1. Open burning of structures is allowed for the purpose of firefighter training, provided that the fire department has acquired the requisite Alaska Department of Environmental Conservation approval and made all the proper notifications and modifications.
2. Special burn permits may be issued by the fire chief, fire marshal or designee.

15.08.060 Penalties.

A. False alarms, as determined in writing by the fire chief or a designated representative, or violations of SMC 15.08.055 Open Burning shall be charged for as follows:

First false alarm:	\$ 50.00
Second false alarm:	100.00
Third and subsequent false alarms:	200.00

B. Penalties may be imposed by the fire chief for malicious and/or repetitive alarm signals which are false due to negligence of the owner/operator or caused by the owner/operator or his tenants or employees. Identified false alarms shall be listed cumulatively by location during the calendar year. At the conclusion of the year incident logs shall be closed and a new list of false alarms shall be initiated as needed.

Chapter 15.10

**BUILDING NUMBERING SYSTEM**

Sections:

15.10.010 Building numbering system.

15.10.020 Applicability and compliance.

15.10.010 Building numbering system.

The NS-EW rectangular grid survey, as depicted on the borough maps, is the basis for establishing of the municipality's site-numbering system. The base lines for designation of N - S and E - W numbering series are First Avenue and Spring Street, respectively.

A. East-West Avenues, Numbering Series. Buildings located on avenues shall be numbered from east to west. All buildings east of Spring Street shall be assigned numbers in the 100 series; buildings between Spring Street and Broadway Street shall be numbered in the 200 series; between Broadway and State in the 300 series; between State and Main in the 400 series; between Main and Alaska in the 500 series; and west of Alaska Street in the 600 series. Buildings located on the south side of avenues shall be assigned odd numbers and buildings on the north side even numbers.

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- B. North-South Streets, Numbering Series. Buildings located on streets shall be numbered from south to north. Buildings between First and Second Avenue shall be numbered in the 100 series; between Second and Third in the 200 series through between 22nd and 23rd Avenues, in the 2200 series. Buildings on the east side of the streets shall be assigned even numbers, and buildings on the west side odd numbers.
- C. Buildings Located South of First Avenue. Buildings located to the south of First Avenue shall be assigned the series number, prefixed by the word "South," which would pertain if the street or avenue block grids were extended.
- D. Number Assignments. The location of the front or main entrance to a building shall determine the number assigned and, for buildings located on the corner of a street or avenue, the designation as a street or avenue location.
- E. Types and Locations of Numbers. The building numbers shall be Arabic, and of sufficient size and so located on the building or close by the main entrance, as to be clearly visible from the street or avenue upon which the building fronts.

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Skagway Street Numbering System



**15.10.020 Applicability and compliance.**

The numbering system shall be applicable to all buildings within the municipal boundaries. There shall be no penalty for noncompliance other than that owners or occupants of unnumbered buildings may suffer safety hazards or inconvenience.

**Chapter 15.12**  
**FLOOD ZONE LAND USE**

**Sections:**

- 15.12.010 Findings of fact and statement of purpose.
- 15.12.020 Land use permit/building permits.
- 15.12.030 Application.
- 15.12.040 Protection against flood damage.
- 15.12.050 Subdivision regulations.
- 15.12.055 Utility regulations.

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- 15.12.060 Implementation.
- 15.12.070 Variances.
- 15.12.080 Definitions.
- 15.12.090 Disclaimer of liability.
- 15.12.010 Findings of fact and statement of purpose.
- A. Areas within the Municipality of Skagway are periodically subject to inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- B. Areas within the municipality have been designated as flood-prone, pursuant to Section 201 of the Flood Disaster Protection Act of 1973, by issuance of a Flood Hazard Boundary Map (FHBM), effective March 1, 1977 (see Section 15.12.080 for definitions), which was based on the Flood Insurance Study dated September 1976 completed by the US Army Corp of Engineers, Alaska District. The City of Skagway was required to join the National Flood Insurance Program to make flood insurance and federal and federally regulated financial assistance available to the residents within the flood-hazard areas.
- C. The purpose of this chapter is to promote the public health, safety and general welfare, to minimize those losses described in subsection A of this section, and to meet the requirements for participation in the National Flood Insurance Program. To accomplish this purpose, it is the intent of this chapter to:
1. Establish a land use permit system;
  2. Require that land uses vulnerable to floods, including public facilities and utilities which serve such uses, be protected against flood damages at the time of initial construction or substantial improvement;
  3. Restrict or prohibit land uses which are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocity; and
  4. Insure that subdivision and development of land within the municipality is consistent with the need to minimize flood hazards.

15.12.020 Land use permit/building permits.

No person shall construct, substantially improve or relocate a structure within the municipality without first securing from the planning and zoning commission a land use permit/building permit for such structure. Where elevation data is not available either through the Flood Insurance Study, FIRM, or from another authoritative source applications for building permits shall be reviewed to assess whether the proposed construction appears reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, **and other factors etc.**, where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates. By reviewing building permits, the municipality does not guarantee or insure that the proposed construction will prevent flooding or any other hazard. **The municipality shall not be liable for any personal injury, loss or damage to persons or property for having reviewed any building permit or permits.**

- 15.12.030 Application.
- A. Application for a land use permit for such structure shall be filed with the borough clerk, and shall be accompanied by a fee as established by the borough

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assembly by resolution. The application for a permit shall be made on a form furnished by and returned to the clerk.

- B. The information furnished in the application shall include, but is not limited to:
1. The name and address of the owner of the structure(s) which is or will be located;
  2. A legal description of the tract;
  3. A statement of the following elevations with respect to mean sea level:
    - a. The ground elevation before and after site preparation,
    - b. Project first-floor elevation of all structures,
    - c. The basement floor elevation, if applicable,
    - d. Elevation of the regulatory flood, if applicable;
  4. A list of any additional permits required by state or federal law before construction may begin, indicating the responsible agency and for what the permit was issued. At a minimum, this includes the Alaska Department of Fish and Game, the Alaska Department of Natural Resources, and the U.S. Army Corps of Engineers, Alaska District;
  5. If the structure is located in a flood-hazard area, information which demonstrates that the structure will be adequately protected against flood damage and that the structure or site preparation will not adversely affect flood elevations or velocities.

15.12.040 Protection against flood damage.

- A. Within Zone A (0-99) flood-hazard areas, as identified on the municipality's Flood Hazard Boundary Map, no land use permit shall be approved by the planning and zoning commission unless all of the following requirements are satisfied.
1. Any new or substantially improved structure shall be designed (or modified) and anchored to prevent flotation, collapse or lateral movement of the structure.
  2. Construction materials and utility equipment that are resistant to flood damage and construction practices and methods that will minimize flood damages shall be utilized.
    - a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
    - b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
    - c. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
  3. Utilities.
    - a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
    - b. New and replacement sanitary sewage systems shall be designed to discharge from the systems into flood waters; and,
    - c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

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4. Construction or substantial improvement shall not be permitted unless the applicant demonstrates that any associated new or replacement water supply system and sanitary sewage system, including on-site systems, will be designed and constructed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters. All systems shall be flood proofed at least to the base flood elevation (BFE).
  5. The lowest floor, including basement, of any new residential construction, and substantial improvements to residential structures shall be elevated to a minimum of one (1) foot above the base flood elevation, provided that the required regulatory-flood water surface elevation data is available from any appropriate source and can reasonably be used.
  6. The lowest floor of new construction and substantial improvements of nonresidential structures shall be elevated at a minimum of one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, shall be flood proofed to one (1) foot above the base flood elevation, provided that the required base flood elevation data is available from any appropriate source and can reasonably be used.
  7. Mobile homes shall be elevated to a minimum of one (1) foot above the base flood elevation and shall have ground anchors for tie-downs required in accordance with standards determined by the Federal Insurance Administration. Specific requirements shall be that:
    - a. Over-the-top ties be provided at each of the four (4) corners of the mobile home, with two (2) additional ties per side at intermediate locations and mobile homes less than fifty feet (50') long requiring one (1) additional tie per side;
    - b. Frame ties be provided at each corner of the home, with five (5) additional ties per side at intermediate points, and mobile homes less than fifty feet (50') long requiring four (4) additional ties per side;
    - c. All components of the anchoring system be capable of carrying a force of four thousand eight hundred (4,800) pounds; and
    - d. Any additions to the mobile home be similarly anchored.
      - (i) The fact that the mobile home is being located in a floodplain area having special flood hazards shall be disclosed to the mobile home and/or lot purchaser or lessee in the purchase contract, deed or lease; and an evacuation plan indicating alternate vehicular access and escape routes shall be filed with the Division of Emergency Services and the Department of Military Affairs.
  8. AH Zone Drainage. Adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.
- B. Pursuant to subsection A of this section, the ~~council~~ **borough assembly** may require, as appropriate, flood damage control measures such as the following:
1. Installation of watertight doors, bulkheads and shutters, or similar methods of closure;
  2. Reinforcement of walls to resist water pressures;
  3. Use of paints, membranes or mortars to reduce seepage of water through walls;

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4. Addition of mass or weight to structures to resist flotation;
  5. Installation of pumps to reduce water levels in structures;
  6. Installation of pumps or comparable facilities for subsurface drainage systems to relieve external foundation wall and basement flood pressures;
  7. Building design and construction to resist rupture or collapse caused by water pressure or floating debris;
  8. Location and installation of all electrical equipment, circuits, appliances and heating systems so that they are protected from inundation by the regulatory flood;
  9. Location of storage facilities for chemicals, explosives, buoyant materials, flammable liquids, or other toxic materials which could be hazardous to public health, safety and welfare; or design of such facilities to prevent flotation of storage containers which could result in the escape of toxic materials into floodwaters;
  10. Use of materials such as sheathing, siding, subflooring and underlayment that are not subject to water damage due to prolonged submersion below regulatory flood level;
  11. Use of closed-cell insulation to prevent waterlogging and consequent loss of insulation ability below the regulatory flood level;
  12. Oil storage tanks located outside the structure and anchored to prevent disturbance by floodwater. Tanks should be placed upon and secured to a concrete slab of sufficient mass to prevent flotation. In the calculation of required anchorage, little recognition should be given to shear or friction value of the soils, as they will be substantially reduced due to saturation. Both fill and vent pipes should extend above the expected high water level;
  13. Installation of a backwater valve in sewer lines in an accessible location immediately adjacent to the exterior foundation wall.
- C. When the Federal Insurance Administration (FIA) has provided a notice of final base flood elevations on the Flood Insurance Rate Map (FIRM) for the municipality, but has not identified a regulatory floodway or coastal high-hazard area, where applicable, the municipality shall, in addition to the requirements of subsections A and B of this section, and Section 15.12.050 and 15.12.055 of this chapter:
1. Require that where floodproofing is utilized for a particular structure, either:
    - a. A registered professional engineer or architect shall certify that the floodproofing methods are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the base flood, and a record of such certificates indicating the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the community, or
    - b. A certified copy of a local regulation containing detailed floodproofing specifications which incorporate standard, accepted watertight performance standards shall be submitted to the FIA for approval;
  2. Require within Zones A1 - 30 as designated on the FIRM for the municipality for new mobile home parks and mobile home subdivisions;

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for expansions to existing mobile home parks and mobile home subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced; and for all mobile homes to be placed within Zones A1 - 30 on the FIRM but not into a mobile home park or mobile home subdivision, that:

- a. Stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level;
  - b. Adequate surface drainage and access for a hauler are provided; and
  - c. In the instance of elevation on pilings, lots are large enough to permit steps, piling foundations are placed in stable soils no more than ten feet (10') apart, and reinforcement is provided for pilings more than six feet (6') above the ground level;
3. Require with any A0 zone on the FIRM that all new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the crown of the nearest street to or above the depth number specified on the FIRM;
  4. Require within any A0 zone on the FIRM that all new construction and substantial improvements of nonresidential structures:
    - a. Have the lowest floor (including basement) elevated above the crown of the nearest street to or above the depth number specified on the FIRM, or
    - b. Together with attendant utility and sanitary facilities, be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water, and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
  5. Require within any A99 zones on the FIRM the standards of subsections A, B4 and B5 of Section 15.12.040, and the procedures of Section 15.12.060 of this chapter be met;
  6. Require, until a regulatory floodway is designated, that no new construction, substantial improvements or other development, including fill, be permitted within Zones A1 - 30 on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. It shall be the responsibility of the applicant to demonstrate that this requirement will be fulfilled.
- D. When the FIA has provided data from which the municipality shall designate its regulatory floodway, the municipality shall:
1. Select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood without increasing the water surface elevation of that flood more than one foot (1') at any point;
  2. Prohibit encroachments, including fill, new construction, substantial improvements and other development within the adopted regulatory



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- floodway that would result in any increase in flood levels within the community during the occurrence of the base flood discharge;
3. Prohibit the placement of any mobile homes, except in an existing mobile home park or mobile home subdivision, within the adopted regulatory floodway.
- E. When FIA has also identified on the community's FIRM Zones V1 - 30 (coastal high-hazard area) the municipality shall:
1. Require that all new construction within Zones V1 - 30 on the FIRM be located landward of the reach of mean high tide;
  2. Provide:
    - a. That all new construction and substantial improvements within Zones V1 - 30 on the FIRM are elevated on adequately anchored pilings or columns, and securely anchored to such piles or columns so that the lowest portion of the structural members of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level,
    - b. That a registered professional engineer or architect certify that the structure is securely anchored to adequately anchored pilings or columns in order to withstand velocity waters and storm wave-wash,
  3. Provide that all new construction and substantial improvements within Zones V1 - 30 on the FIRM have the space below the lowest floor free of obstructions, or be constructed with "breakaway walls" intended to collapse under stress due to abnormally high tides or wind-driven water without jeopardizing the structural support of the structure. Such temporarily enclosed space shall not be used for human habitation;
  4. Prohibit the use of fill for structural support of buildings within Zones V1 - 30 on the FIRM;
  5. Prohibit the placement of mobile homes, except in existing mobile home parks and mobile home subdivisions, within Zones V1 - 30 on the FIRM.
- F. When the FIA has delineated Zone E (flood-related erosion hazard area) on the FIRM, the municipality shall:
1. Require the issuance of a permit for all proposed construction, or other development in the area of flood-related erosion hazard, as it is known to the community;
  2. Require review of each permit application to determine whether the proposed site alterations and improvements will be reasonably safe from flood-related erosion and will not cause flood-related erosion hazard;
  3. If a proposed improvement is found to be in the path of flood-related erosion or to increase the erosion hazard, require the improvement to be relocated or adequate protective measure to be taken which will not aggravate the existing erosion hazard;
  4. Require a setback for all new development from the ocean, lake, bay, riverfront or other body of water, to create a safety buffer. This buffer will be designated by the FIA according to the flood-related erosion hazard and erosion rate, in conjunction with the anticipated "useful life" of structures and depending upon the geologic, hydrologic, topographic and climatic characteristics of the community's land.

15.12.050 Subdivision regulations.

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- A. The platting board shall deny permission to subdivide land within flood-hazard areas unless the following requirements have been fulfilled:
  - 1. The land subdivision and associated development are consistent with the need to minimize flood damages;
  - 2. All public utilities and facilities such as sewer, gas, electrical and water systems, shall be located, elevated or constructed to minimize or eliminate flood damage;
  - 3. Adequate drainage shall be provided to reduce the exposure of structures, utilities and facilities to flood hazards;
  - 4. Evidence has been submitted that all necessary permits required by state or federal law have been applied for and granted. At a minimum, this includes the Alaska Department of Fish and Game, the Alaska Department of Natural Resources and the U.S. Army Corps of Engineers, Alaska District;
  - 5. The preliminary and final plat shall include the ground elevation and the regulatory flood elevation, if available, at convenient reference points;
  - 6. The flood-hazard area, if identified, shall be labeled "Flood Hazard Area" on preliminary and final plats. The fact that a lot is in the flood-hazard area shall be disclosed in any contract to purchase, rent or lease the lot.
- B. All new or replacement water supply systems and sanitary sewage systems, including on-site systems, shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
- C. All new or replacement public utilities such as gas, electric and telephone systems shall be designed or constructed to eliminate disruptions due to flooding and associated hazards.
- D. In determining if the requirements of this section are fulfilled, the platting board shall consider the intent of this chapter and at least:
  - 1. The danger to life and property due to the increased flood heights or velocities caused by subdivision fill, roads, structures and intended uses;
  - 2. The danger that structures may be swept into other lands or downstream to the injury of others;
  - 3. The adequacy of proposed water supply and sanitation systems, and the ability of these systems to prevent disease, contamination and unsanitary conditions under flood conditions;
  - 4. The susceptibility of the proposed facility and its contents to flood damage, and the effect of such damage on the individual owner;
  - 5. The requirements of the subdivision for a waterfront location;
  - 6. The availability of alternative locations not subject to flooding for the proposed subdivision and land uses;
  - 7. The compatibility of the proposed uses with existing development and development anticipated in the foreseeable future;
  - 8. The relationship of the proposed subdivision to the comprehensive plan and floodplain management program for the area;
  - 9. The safety of access to the property for emergency vehicles in times of flood;
  - 10. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site;
  - 11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and

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facilities such as sewer, gas, electrical and water systems and streets and bridges;

12. The installation of valves or controls on sanitary and storm drains which permit the drains to be closed to prevent backup of sewage and stormwaters into buildings or structures.

15.12.055 Utility Regulations.

- A. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- B. New and replacement sanitary sewage systems shall be designed to discharge from the systems into flood waters; and,
- C. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- D. All new or replacement public utilities such as gas, electric and telephone systems shall be designed or constructed to eliminate disruptions due to flooding and associated hazards.

15.12.060 Implementation.

- A. Permits issued pursuant to this chapter shall conform to all other applicable codes or regulations as are from time to time established or amended; however, this chapter shall control in the event of any conflict unless specifically stated otherwise or unless the conflicting provision is more restrictive.
- B. The borough clerk shall be responsible for maintaining for public use and inspection ~~appropriate~~ records and information relevant to implementation of this chapter. Such records and information shall include, to the extent available to the municipality, but not be limited to:
  1. Floor elevations of all new or substantially improved structures located in the flood-hazard area, and whether or not such structures have basements;
  2. Elevations to which structures are floodproofed;
  3. Flood-hazard boundary maps;
  4. Flood insurance rate maps;
  5. Any reports or studies on flood hazards in the community, such as written by the Corps of Engineers, United States Geological Survey or private firms;
  6. A copy of the annual report;
  7. A file of all land use permit applications, supporting documentation, and the council's **borough assembly's** action.
- C. The municipality shall file with the Federal Insurance Administration an annual report on forms provided by the Federal Insurance Administration. This annual report shall be verified and signed by the mayor. A copy of the annual report shall be retained by the municipality and one (1) copy shall be sent to the State Coordinating Agency.
- D. In case any structure is constructed or substantially improved in violation of this chapter, the municipality, in addition to other remedies, shall institute any proper actions or proceedings necessary, including prohibiting connections to public utilities, and to restrain, correct or abate such violations.
- E. The municipality is hereby authorized to enter into contracts and agreements with other government entities for the purpose of implementing the provisions of this chapter.

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- F. The municipality must notify adjacent communities, the State Coordinating Agency and the Federal Insurance Administration prior to altering or relocating any watercourse.
- G. Prior to enactment of any changes in this chapter due to changes in the flood-hazard area as a result of natural or man-made causes, such changes shall be reviewed by the State Coordinating Agency and approved by the Federal Insurance Administration.
- H. The municipality must notify the Federal Insurance Administration of any changes in the municipality's boundaries or authority to regulate land uses.
- I. Nothing in this chapter shall be construed as applying to any structures existing prior to the effective date of the ordinance codified in this chapter unless they are substantially improved after such effective date.

15.12.070 Variances.

A. Variance Procedure.

- 1. The variance procedure shall follow, to the extent applicable, as determined by the Planning & Zoning Commission, the procedure as set forth in SMC 19.04.060(A)(1 through 7). In passing upon such applications, the Planning & Zoning Commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:
  - a. The danger that materials may be swept onto other lands to the injury of others;
  - b. The danger to life and property due to flooding or erosion damage;
  - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - d. The importance of the services provided by the proposed facility to the community;
  - e. The necessity to the facility of a waterfront location, where applicable;
  - f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - g. The compatibility of the proposed use with existing and anticipated development;
  - h. The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
  - i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - j. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
  - k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- 2. Upon consideration of the factors listed above and the purposes of this chapter, the Planning & Zoning Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

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3. The clerk shall maintain the records of all actions and report any variances to the Federal Insurance Administration upon request.
- B. Conditions for Variances
1. The only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided items (a-k) in Section 15.12.070(A) have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.
  2. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this section.
  3. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
  4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  5. Variances shall only be issued upon:
    - a. A showing of good ~~and sufficient~~ cause;
    - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
    - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Section 15.12.070(A), or conflict with existing local laws or ordinances.
  6. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece or property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.
  7. Variances may be issued for nonresidential buildings in ~~very~~ limited circumstances to allow a lesser degree of flood proofing than watertight or dry-flood proofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except 15.12.070(B)(1) above, and otherwise complies with Section 15.12.040(A), Protection against flood damage.
  8. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- C. Board of Appeals. The Borough Assembly shall serve as the Appeal Board and shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the building official or Planning & Zoning Commission in the enforcement or administration of this chapter. All appeals to the Assembly serving as the Board of Appeal shall follow, to the

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extent applicable and as determined by the Assembly, the procedure as set forth in SMC 19.04.070. **The appeal shall be determined by the Assembly upon the record before the Planning & Zoning Commission, and to the extent any sections of SMC 19.04.070 may be interpreted to allow other evidence, the section shall control the appeal process.**

- D. Appeals. Any interested party, including but not limited to a city **municipal** official, may file with the board of appeals an appeal specifying in detail his objections to a decision made by the building official or Planning & Zoning Commission with regard to this chapter. All such appeal shall be filed within ten (10) business days excluding City **municipal** or Federal holidays of the date of the letter issued within 14 calendar days notifying the applicant of the decision in writing to the borough clerk.
- E. Judicial Review. A party to an appeal under 15.12.045(D) may appeal to the Superior Court in the First Judicial District at Juneau, Alaska. Any such appeal must be filed in the Superior Court no later than 30 calendar days from the date of the decision of the Assembly specified in 15.12.045(C) and (D). **Any appeal to the Superior Court shall be on the record before the Borough Assembly.**

15.12.080 Definitions.

A. General Interpretation. Unless specifically defined below, words or phrases used in this chapter shall be interpreted, so as to give them the meaning they have in common usage and to give this chapter it's most reasonable application.

1. "Accessory Structures" means low cost buildings such as detached garages, boathouses, small pole barns and storage sheds, not to be used for human habitation, shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters; shall be anchored to prevent floatation which may result in damage to other structures; service utilities such as electrical and heating equipment shall be elevated or flood-proofed.
2. "Appeal" means a request for a review of the ~~interpretation of any provision of this chapter or a request for a variance~~ **decision of the building official or the Planning and Zoning Commission.**
3. "Area of Shallow Flooding" means a designated AO, or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.
4. "Area of Special Flood Hazard" means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters "A" or "V".
5. "Base Flood" means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood." Designation on maps always includes the letters "A" or "V".
6. "Basement" means any area of the building having its floor sub-grade (below ground level) on all sides.
7. "Coastal high-hazard area" means the area subject to high-velocity waters due to wind, tidal action, storm, tsunami, or any similar force, acting singly or in any combination, resulting in a wave or series of waves of sufficient magnitude, velocity or frequency to endanger property and lives.

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8. "Crawlspace" is an enclosed area below the base flood elevation and as such, must have openings that equalize hydrostatic pressures by allowing for the automatic entry and exit of floodwaters.
9. "Critical Facility" means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.
10. "Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazards.
11. "Elevated Building" means for insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.
12. "Existing Manufactured Home Park or Subdivision" means a manufactured home park subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted floodplain management regulations.
13. "Expansion to an existing Manufactured Home Park or Subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
14. "Federal Insurance Administration (FIA)" means the division of the Federal Emergency Management Agency which is responsible for administration of the National Flood Insurance Program.
15. "Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:
  - a. The overflow of inland or tidal waters and/or
  - b. The unusual and rapid accumulation of runoff of surface waters from any source.
16. "Flood-hazard area" includes all the area within the corporate limits subject to the one-hundred (100) year flood, as delineated on the Flood Hazard Boundary Map or the Flood Insurance Rate Map for the ~~city~~ **municipality** published by the Federal Insurance Administration; "Flood-hazard area" includes the coastal high-hazard area where applicable.
17. "Flood Hazard Boundary Map (FHBM)" means a map of the municipality issued by the Federal Insurance Administration which delineates the area subject to the one-hundred (100) year flood. This area is identified as the "Special Flood Hazard Area" on the map.
18. "Flood Insurance Rate Map (FIRM)" means the map of the municipality issued by the Federal Insurance Administration which delineates the area subject to the one-hundred (100) year flood, the water surface elevation of the one-hundred (100) year flood, and the flood insurance rate zones.

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19. "Flood Insurance Study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.
20. "Flood-related erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash-flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.
21. "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
22. "Lowest Floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter found at Section 15.12.050(B)(1)(b).
23. "Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".
24. "Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
25. "New Construction" means structures for which the "start of construction" commenced on or after the effective date of this chapter.
26. "New Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted floodplain management regulations.
27. "One-hundred (100) year flood" means a flood of a magnitude which can be expected to occur on the average of once every one hundred (100) years.  
NOTE: It is possible for this size flood to occur during any year. The odds are one (1) to one hundred (100) that this size flood will occur during a given year; there is a one percent (1%) chance that a flood will occur each year. Statistical analysis of available streamflow or coastal storm records, or analysis of rainfall and runoff characteristics of the watershed, or coastal topography and storm characteristics are used to determine the extent and depth of the one-hundred (100) year flood.
28. "Recreational Vehicle" means a vehicle, which is:
  - a. Built on a single chassis;



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- b. 400 square feet or less when measured at the largest horizontal projection;
  - c. Designed to be self-propelled or permanently towable by a light duty truck; and
  - d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
29. "Regulatory flood" is the one-hundred (100) year flood. The water surface elevations of the Regulatory Flood are calculated for use in producing the Flood Insurance Rate Map.
30. "Repetitive Loss" means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before damage occurred.
31. "Start of Construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
32. "Structure" means a walled and roofed building constructed for the support, shelter or enclosure of persons, animals, goods or property of any kind. The term also includes liquid or gas storage containers, and mobile homes and modular units.
33. "Substantial Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
34. "Substantial Improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:
- a. Before the improvement or repair is started; or
  - b. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

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The term does not, ~~however,~~ include either:

- (i) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
  - (ii) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.
35. "Variance" means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.
36. "Water Dependent" means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

15.12.090 Disclaimer of liability.

The grant of a land use permit or approval of a subdivision plan in the flood-hazard area shall not constitute a representation, guarantee or warranty of any kind by the municipality or any official or employee of the municipality of the practicability or safety of the proposed use or construction, and shall create no liability **of any kind or any nature** upon the municipality, its officials, officers, or employees.

Chapter 15.14  
MOBILE HOMES

Sections:

- 15.14.010 Definitions.
- 15.14.020 Historic District locations prohibited.
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- 15.14.040 Nonconforming uses.
- 15.14.050 Restrictions.
- 15.14.060 Exemptions.
- 15.14.070 Compliance with other laws and regulations.
- 15.14.075 Fees.
- 15.14.080 Enforcement.

15.14.010 Definitions.

- A. "Mobile Home" means a detached single family dwelling designed for long term human habitation and having complete living facilities; constructed and fabricated into a complete unit at a factory and capable of being transported to location of use on its own chassis and wheels, identified by model number and serial number by its manufacturer, and designed primarily for placement on an impermanent foundation. A mobile home shall continue to be classified as such regardless of its actual placement upon concrete or other permanent foundation, or removal of wheels, or addition of base skirts, or any foregoing.
- B. "Mobile home not intended as dwelling unit," as for example, equipped for sleeping purposes only, contractor's on-site offices, construction job dormitories, mobile studio dressing rooms, banks, clinics, mobile stores, or intended for the display or demonstration of merchandise or machinery.
- C. "Modular Home" means a single-family dwelling unit designed for long term human habitation and meeting the requirements for "manufactured home."

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- D. "Manufactured Home" means a detached single family dwelling designed for long term human habitation and having complete living facilities; structure, transportable in one or more sections, which in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length or when erected on site, is three hundred twenty (320) or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities. Siding shall consist of materials such as wood (beveled, shiplap, log, etc.), T-111, Hardiplank, Hardi-board, Cladwood or other non-metallic materials. Roofing shall consist of asbestos 3-tab shingles or steel roof with sheet widths no larger than 36 inches.
- E. "Recreational Vehicle" means a vehicular-type unit primarily designed as temporary living quarters for recreational, camping, travel or seasonal use that either has its own motive power or is mounted on, or towed by another vehicle. The basic entities are: camping trailer, fifth wheel trailer, motor home, park trailer, travel trailer, and truck camper. (See individual definitions.)
1. "Camping Trailer" is a vehicular portable unit mounted on wheels and constructed with collapsible partial side walls that fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping or travel use.
  2. "Fifth Wheel Trailer" is a vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping or travel use, of such size or weight as not to require special highway movement permit(s), of gross trailer area not to exceed four hundred (400) square feet (37.2m<sup>2</sup>) in the set up mode, designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle.
  3. "Motor Home" is a vehicular unit designed to provide temporary living quarters for recreational, camping or travel use, built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van that is an integral part of the completed vehicle.
  4. "Park Trailer" is a recreational vehicle that meets the following criteria:
    - a. Built on a single chassis mounted on wheels.
    - b. Having a gross trailer area not exceeding four hundred (400) square feet in the set-up mode.
    - c. Certified by the manufacturer as complying with ANSI A119.5
  5. "Travel Trailer" is a vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping or travel use, of such size or weight as not to require special highway movement permits when towed by a motorized vehicle, and of gross trailer area less than three hundred twenty (320) square feet (29.7m<sup>2</sup>).
  6. "Truck Camper" is a portable unit constructed to provide temporary living quarters for recreational, travel or camping use, consisting of a roof, floor and sides, designed to be loaded onto and unloaded from the bed of a pickup truck.
- F. "Recreational Vehicle Park" is a tourist facility for parking motor homes, travel trailers and other recreational vehicles.
- G. "Storage Trailer and Van" means a wheeled van or container unit not manufactured as a motorized vehicle or intended for long-term or short-term

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occupancy, but designed and manufactured for the primary purpose of storage and/or transporting commodities and goods.

- H. "Used and occupied" means and includes the words "intended, arranged or designed to be used or occupied."

15.14.020 Historic District locations prohibited.

No mobile home, including a double-wide or modular home on a permanent foundation, nor a recreational vehicle nor a storage trailer or van shall be permitted to be located in the Historic District as elsewhere identified in the municipal code.

15.14.030 Other locations south of 15th Avenue.

No mobile home or trailer park may be positioned or located south of 15th Avenue.

15.14.040 Nonconforming uses.

- A. Intent. Within the zones established and areas designated in this chapter, there exist uses of land and structures which were lawful before this chapter was adopted in 1977 but which would be prohibited under the terms of this chapter. It is the intent of this provision to permit these nonconforming uses to continue until they are removed, but not to encourage their survival. Such uses are declared by this chapter to be incompatible with permitted uses in the zones involved. It is further the intent of this chapter that nonconforming uses shall not be enlarged upon, expanded, nor used as grounds for adding other structures or uses prohibited elsewhere in the same zone. This section shall be interpreted with a view toward the public policy of early termination of nonconforming uses, and ambiguities shall be construed restrictively against perpetuation of such uses.
- B. Enlargement. A nonconforming use or structure shall neither be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of this chapter in 1977.
- C. Relocation. A nonconforming use or structure shall not be moved in whole or part to any other portion of the lot or parcel occupied by such use at the effective date of this chapter in 1977.
- D. Discontinuance. If any such nonconforming use of land or structure ceases for any reason for a period of twelve (12) months, any subsequent use of such land or structure must conform to the regulation specified by this chapter and the zoning map for the district in which the land is located; and similarly, if any such nonconforming use of land or structure is voluntarily abandoned the same requirements shall apply immediately upon abandonment. In this context, six (6) months discontinuance of the nonconforming use shall create a rebuttable presumption that the nonconforming use has been abandoned, and twelve (12) months of discontinuance shall create a conclusive presumption of abandonment.
- E. Preexisting Structures. To avoid undue hardships, nothing in this chapter shall be deemed to require a change in use of any mobile home or similar structure on which actual construction was lawfully begun prior to the effective date of this chapter in 1977 and upon which actual building construction or mobile home location or placement was completed within six (6) months thereafter.
- F. Casualty Destruction and Rebuilding. In the event of fire or other extended casualty loss or damage exceeding fifty percent (50%) of its assessed value, the structure may not be replaced, and no replacement of nonconforming structure shall be relocated upon the same premises.

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- 15.14.050 Restrictions.
- A. All mobile homes shall be considered as single-family living units and be subject to restriction for such occupancies, but this provision shall not be construed to prohibit the conduct of a home occupation in a mobile home.
  - B. All mobile homes and manufactured homes brought into Skagway after January 1, 1997, must have affixed upon the unit(s) a Data plate with name and address of the manufacturing plant, serial number, model designation, date manufactured, thermal protection for Outdoor Winter Design Temperature Zone 3, Wind Resistive Hurricane (HUD Zone II) and external snow roof load for North Zone, or Canadian equivalent.
  - C. All recreational vehicles used for habitation shall use designated Recreational Vehicle Parks or trailer parks.
  - D. Recreational vehicle used for habitation other than that of vacation usage shall conform to Municipality of Skagway Life-Safety Standards:
    - 1. All recreational units shall meet ANSI A119.2 standards by January 1, 1997.
    - 2. Recreational units shall have posted in a conspicuous external location a current year annual municipal RV safety living permit certificate or sticker.
  - E. Pre-existing nonconforming recreational vehicles, located in Skagway on January 1, 1995, used for habitation shall be allowed for usage after annual municipal RV Safety Standard Occupancy inspection and certificate issued. Nonconforming permit fees to double annually, for a total of five (5) years only. After time period has expired, the nonconforming recreational vehicle usage shall be discontinued and the vehicle removed.

15.14.060 Exemptions.

Mobile homes shall be exempt from compliance with any of the provisions of this chapter in the following situations.

- A. Storage. Not more than one (1) each travel trailer, camper, storage trailer, van or boat may be stored on a residential lot, parcel or tract without the requirement of a fence or plantings with the exception of aircraft west of Alaska Street.
- B. Construction Functions. Construction firms may use a mobile home for a temporary office at the work site during the period of construction. Living quarters or mess halls must be located in industrial or waterfront zones, provided that the same are connected to utilities. Upon completion of the construction project, the construction camp units shall be removed.
- C. Business Relocation. A business firm may use a mobile home for a temporary office in the event that business must be temporarily relocated for a period not to exceed one hundred twenty (120) days upon obtaining a **conditional use** permit from the planning commission and a ~~city~~ **municipal** building permit. In the event that a permitted structure is damaged by fire, earthquake or other natural cause to the extent that it is uninhabitable, a permit may be issued for occupancy for a mobile home during the period that the structure is being rehabilitated or repaired, but in no event shall a **conditional use** permit be for a period longer than eighteen (18) months.
- D. Celebrations. A mobile home may be used in ordinary and usual ways in connections with circuses, fairs and similar celebrations.
- E. Occupancy While Building a Home. A mobile home may be used for temporary living quarters for not more than eighteen (18) months while the occupant thereof

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is constructing a permanent dwelling on the same property. Before a mobile home will be permitted in such an instance, the owner of the property or the person intended to occupy the mobile home shall secure a building permit for the mobile home. Such permit shall be granted upon the receipt of a signed statement by the permittee that a permanent dwelling will be constructed within eighteen (18) months thereafter. Construction shall start within sixty (60) days of mobile home placement. Only one (1) mobile home shall be permitted on any parcel of land during the construction or repair of a permanent dwelling.

**15.14.070 Compliance with other laws and regulations.**

In addition to complying with the provisions of this chapter, owners of mobile homes and trailers as defined herein, and trailer park permittees, shall be required to comply with any applicable provisions of other portions of the municipal code, including the building codes, fire prevention code, and the zoning code.

**15.14.075 Fees.**

The assembly may by resolution establish fees to be paid by applicants for any type of inspection, permit or other municipal processing of habitation under this title.

**15.14.080 Enforcement.**

This chapter shall be enforced by the borough manager or his designee.

Chapter 15.16  
GENERAL PROVISIONS

Sections:

15.16.010 Penalties.

15.16.020 Remedies not exclusive.

15.16.030 Judicial review.

**15.16.010 Penalties.**

Except where otherwise specifically stated, violations of provisions of this title shall be non-criminal infractions, subject to a penalty not exceeding three hundred dollars (\$300.00). Each day of continuing noncompliance, following the municipality's issuance of a notice of noncompliance, shall be a separate violation.

**15.16.020 Remedies not exclusive.**

Nothing in this title shall interfere with the utilization of applicable remedies provided elsewhere in the municipal code or afforded by the laws of the state of Alaska.

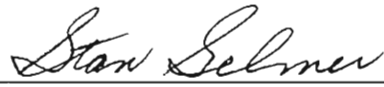
**15.16.030 Judicial review.**

An aggrieved person, after exhaustion of all processes for appeal to the municipal government provided by this title, may **only** appeal to the Superior Court, First Judicial District, any final decision of the municipality, ~~provided~~ **if** the aggrieved person files a **written** notice of appeal with the borough manager no later than ~~thirty (30)~~ **twenty (20)** days following issuance of the municipality's final decision which is the subject of the appeal, and files his appeal with the Superior Court no later than ~~twenty (20)~~ **thirty (30)** days thereafter.

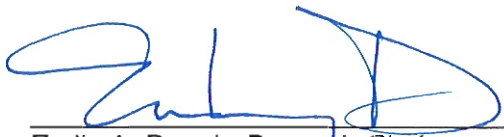
**Section 4. Severability.** If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

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

**PASSED AND APPROVED** by a duly constituted quorum of the Borough Assembly of the Municipality of Skagway this 5<sup>th</sup> day of January, 2012.

  
\_\_\_\_\_  
Stan Selmer, Mayor

ATTEST:

  
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Emily A. Deach, Borough Clerk

(SEAL)

