

Proposed by:	Civic Affairs Committee
Attorney Review:	07/13/2011
First Reading:	09/15/2011
Second Reading:	10/06/2011
Vote: 6 Aye	0 Nay 0 Absent

## MUNICIPALITY OF SKAGWAY, ALASKA ORDINANCE NO. 11-22

**AN ORDINANCE OF THE MUNICIPALITY OF SKAGWAY, ALASKA AMENDING TITLE 8 HEALTH AND SAFETY BY AMENDING CHAPTERS 8.02 AND 8.04.**

**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 8, Health and Safety by amending Chapters 8.02 and 8.04.

**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 8.02 Litter Control, Chapter 8.04 Nuisances, and Chapter 8.06 Fireworks are hereby amended as follows.

### Chapter 8.02 LITTER CONTROL

Sections:

- |          |   |
|----------|---|
| 8.02.010 | Definitions.  |
| 8.02.020 | Litter in public places.  |
| 8.02.030 | Sidewalks to be kept free of litter.  |
| 8.02.040 | Litter thrown by persons in vehicles.   |
| 8.02.050 | Vehicle loads causing litter.   |
| 8.02.060 | Sweeping litter into gutters.   |
| 8.02.070 | Municipality's removal of litter from private property.   |
| 8.02.080 | Distribution of handbills at private premises.  |
| 8.02.100 | Violation--Penalty.   |
|          |   |
| 8.02.010 | Definitions.  |
| A.       | "Ashes" means the solid waste products of coal, wood and other fuels used for heating and cooking, from all public and private establishments and from all residences.  |
| B.       | "Garbage" means all putrescible wastes except sewage and body wastes, including vegetable wastes, but not including recognized industrial byproducts, and includes all such substances from all public and private establishments and residences. |

**MUNICIPALITY OF SKAGWAY, ALASKA**

**ORDINANCE NO. 11-22**

Page 2 of 7

- C. "Litter" means garbage, refuse, rubbish, ashes and all other waste material which, if thrown or deposited as prohibited in this chapter, tends to create a danger or nuisance to public health, safety or welfare.
- D. "Refuse" means garbage, rubbish, ashes, and all other putrescible and nonputrescible waste, except sewage, from all public and private establishments and residences.
- E. "Rubbish" means all nonputrescible wastes including, but not limited to waste paper, boxes, debris, grass and leaves from all public and private establishments and residences, but does not include recognized industrial byproducts.

8.02.020 Litter in public places.

No person shall throw, deposit or sweep litter in or upon any street, gutter, sidewalk, body of water or other public place within the municipality except in authorized private or public receptacles for collection, or in disposal areas designated by the municipality. Persons placing litter in authorized private or public receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements.

8.02.030 Sidewalks to be kept free of litter.

Persons owning or occupying property or places of business within the municipality shall keep the sidewalk in front of their premises free of litter.

8.02.040 Litter thrown by persons in vehicles.

No person, while a driver or passenger in any vehicle in or above the municipality, shall throw or deposit litter, handbills, or any other object upon any street or other public place within the municipality, or upon private property.

8.02.050 Vehicle loads causing litter.

- A. No person shall drive or move any truck or other vehicle within the municipality unless such vehicle is so constructed and loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place. Nor shall any person drive or move any vehicle or truck within the municipality, the wheels or tires of which carry unto or deposit in any street, alley or other public place mud, dirt, sticky substances, litter or foreign matter of any kind.
- B. Any person in charge of operating any truck or other vehicle having knowledge of this truck or vehicle causing litter to be deposited within the municipality shall immediately take all necessary steps to cease such littering, and cause to be removed all litter which was deposited as a result of the operation of the truck or other vehicle which caused the littering.
- C. Any person in charge of operating any truck or other vehicle having knowledge of this truck or other vehicle causing litter to be deposited within the municipality who is unable, for any reason except his personal injury, to immediately cease such littering and cause it to be removed, shall immediately report such littering to the borough manager or his designee. Removal of such litter may then, if deemed in the public interest, be performed by the municipality at the expense of the owner or operator of the truck or other vehicle causing the litter. Such removal or cleanup shall be to the satisfaction of the borough manager or his designee.

8.02.060 Sweeping litter into gutters.

**MUNICIPALITY OF SKAGWAY, ALASKA**  
**ORDINANCE NO. 11-22**  
**Page 3 of 7**

No person shall sweep into or deposit in any gutter, street or other public place within the municipality the accumulation of litter from any building or lot, or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk adjoining their premises free of litter.

- 8.02.070 Municipality's removal of litter from private property.
- A. Notice to Remove. The borough manager or his designee is authorized to notify the owner of any private property within the municipality, or the agent of such owner, to properly dispose of litter located on such owner's property. Such notice shall be by certified mail, ~~return receipt~~ **or by hand delivery**, addressed to the owner at his last known address as shown on the assessment rolls of the municipality.
  - B. Action Upon Noncompliance. Upon the failure, neglect or refusal of any owner or agent so notified to properly dispose of litter within ten (10) days after receipt of written notice provided for in subsection A, or within ten (10) days after the date of such notice in the event the same is returned to the municipality because of inability to make delivery thereof, provided the same was properly addressed to the last known address of such owner or agent, the agent designated by the municipality is authorized and empowered to pay for the collection and disposal of such litter or to order its disposal by the municipality.
  - C. Payment of Costs. When the municipality has ~~effected the removal of such litter~~ **removed the litter**, or has paid for its removal, the actual cost thereof plus accrued interest at the rate of ten percent (10%) per year from the date of the completion of the work, if not paid by such owner prior thereto, shall be charged to the owner of such property on the next regular utility or tax bill forwarded to the owner by the municipality, and ~~said the~~ charge shall be due and payable by the owner at the time of payment of such bill.

- 8.02.080 Distribution of handbills at private premises.
- A. No person shall distribute any handbill upon private premises if requested by anyone thereupon not to do so or if there is placed on the premises in a conspicuous position a sign indicating that the occupants of the premises do not desire to have their right of privacy disturbed or to have any such handbills left upon their premises without their consent.
  - B. If premises are not posted as provided in this section, a handbill may be placed therein, provided that the handbill is so deposited as to prevent it from being blown about the premises or any other private or public property. Mailboxes may not be used for this purpose when prohibited by federal postal law or regulations.
  - C. The provisions of this section shall not apply to the distribution of the U.S. mail or to newspapers, except that newspapers shall be placed upon private property in such a manner as to prevent their being carried or blown by the elements.

- 8.02.100 Violation--Penalty.
- Violations of provisions of this chapter shall be noncriminal infractions, punishable by a civil penalty not in excess of three hundred dollars (\$300.00).

Chapter 8.04  
NUISANCES

- Sections:  
8.04.010 Nuisances declared.

**MUNICIPALITY OF SKAGWAY, ALASKA**

**ORDINANCE NO. 11-22**

**Page 4 of 7**

- 8.04.020 Burial.
- 8.04.030 Slaughterhouses.
- 8.04.035 Bear attraction nuisance.
- 8.04.040 Polluting water.
- 8.04.050 Gutters to be kept clean.
- 8.04.060 Industrial waste.
- 8.04.070 Junk and debris prohibited.
- 8.04.075 Graffiti and related vandalism.**
- 8.04.080 Miscellaneous public nuisances.
- 8.04.090 Abatement procedure.
- 8.04.100 Penalty.

8.04.010 Nuisances declared.

It shall be unlawful for any person, firm or corporation to permit or maintain the existence of a nuisance on any property under his or its control. For purposes of this chapter, "nuisance" means any act or condition which is injurious to the public health, or which prevents or obstructs the free and comfortable enjoyment of life and property, or is dangerous to surrounding property. Whenever a nuisance is deemed to exist, it ~~shall~~ **may** be abated by the chief of police at the expense of the person maintaining such nuisance.

8.04.020 Burial.

It shall be unlawful to bury any person within the borough limits except in an established cemetery.

8.04.030 Slaughterhouses.

No person shall establish or maintain a slaughterhouse, or pursue or carry on any other business offensive to the senses or prejudicial to the public health or comfort in any part of the municipality.

8.04.035 Bear attraction nuisance.

- A. Offense. Except as provided in this section, no owner or person in charge of property shall cause or allow the creation or maintenance of a bear attraction nuisance on that property or the adjacent right-of-way.
- B. Citations. Whenever waste or other material in violation of this section is found on property, the officer finding it may note the address and any other information upon or within the material which may identify the owner or person in charge of the property, and shall conspicuously affix to such property a summons and complaint for the owner or person to answer to the charge in court at a specified time.
- C. Definitions. For purposes of this section:
  - 1. "Bear attraction nuisance" means
    - a. More than one-half gallon of any putrescible material, including packaging or other surfaces to which the material is adhered;
    - b. Any organic material of a type which has previously attracted a bear to the property;
    - c. Soiled disposable diapers;
    - d. Exceptions. "Bear attraction nuisance" does not include:
      - i. Manure or sewage;

**MUNICIPALITY OF SKAGWAY, ALASKA**

**ORDINANCE NO. 11-22**

Page 5 of 7

- ii. Material in a garbage can stored outside temporarily for purposes of collection after 4:00 a.m. on a day scheduled for collection;
  - iii. Living or dead flora or fauna indigenous to the property on which it is located;
  - iv. Material completely enclosed in a structure or container which requires hands or tools to open;
  - v. ~~Material~~ Material in a metal garbage container designed to be lifted and emptied by a garbage truck, provided that the container is tightly covered or located within a garbage containment area behind barriers approved by the Municipality as sufficient to withstand entry by a bear.
2. "Garbage can" means a watertight, odor-free, corrosion-resistant container and equipped with a tight-fitting cover secured so as to remain in place if the can is knocked over.
  3. "Person in control" means a tenant or an agent, superintendent, or other owner's representative.
  4. "Property" means developed or undeveloped real property, including any apartment house, mobile home park, planned unit development, or other multifamily development.

**8.04.040 Polluting water.**

It shall be unlawful for any person to throw, empty out or deposit in any gutter or ditch or near any inhabited place, the suds or filthy water resulting from the washing of clothes, slops from kitchens or other foul or filthy matter, or allow the same to stand on his own premises or to seep into the premises of another.

**8.04.050 Gutters to be kept clean.**

It shall be the duty of every owner or occupant of any property to keep the gutter in front of such property at all times clean and free from all obstructions to the free passage of water, and to remove all dirt, filth, garbage or rubbish that may have accumulated on the street or alley adjoining the property, to the middle of the street or alley.

**8.04.060 Industrial waste.**

Every person or corporation owning, operating, maintaining, conducting or managing any cannery, cold storage plant, packing plant, saltery, smokery, fertilizing plant or any plant where fish or animal products are kept, sold, canned, smoked, salted, pickled, frozen or handled in any manner, shall remove and dispose of all refuse and unused portions of such fish, fish products and animals in such manner that the same shall not be deposited on any of the beaches or shores, or upon any public or private highways, creeks or streams within the municipality, or upon any property adjacent thereto, where the same would become a nuisance or a menace to the health of the residents, nor deposited within any of the lakes, rivers or other waters within the corporate limits or adjacent thereto sufficiently near to become a nuisance or menace to the health or well-being of the residents.

**8.04.070 Junk and debris prohibited.**

No owner, lessee, agent, tenant or occupant shall allow or permit any junk, debris, or indiscriminate storage of machinery, equipment parts, lumber or other material, or of discarded motor vehicles or refrigerators, or any accumulation of garbage, manure, offal, rubbish or stagnant water, or any filthy liquid or substance, or anything that is or may become putrid or

offensive, to be or remain upon his yard, lot or premises, or upon any yard, lot or premises controlled by him.

**8.04.075 Graffiti and related vandalism.**

**A. Prohibition of graffiti. It shall be unlawful for any person to intentionally or knowingly commit any overt act resulting in or attempting to result in application of graffiti on any surface on public or private property without the express permission of the owner of such property, including but not limited to trees, rocks, signs, poles, fixtures, utility boxes, walls, paths, walks, streets, bridges, buildings or any other structures or surfaces.**

**B. Definitions.**

**1. Graffiti means any inscription, symbol, design or configuration of letters, numbers written, drawn, etched, marked, painted, stained, stuck on or adhered to any surface on public or private property without the expressed permission of the owner of such property, including but not limited to trees, rock faces, signs, poles, fixtures, utility boxes, walls, paths, walks, streets, bridges, buildings or any other structures or surfaces.**

**C. Exceptions.**

**1. Ship Rock Registry as outlined and defined under SMC Chapter 16.14.**

**8.04.080 Miscellaneous public nuisances.**

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

1. The operation or use of any electrical apparatus or machine which materially and unduly interferes with radio or television reception by others;
2. Any use of a street or sidewalk, or a place adjacent thereto, which causes crowds of people to gather so as to obstruct traffic on such street or sidewalk, or which otherwise obstructs traffic thereon, except as may be authorized by law or municipal permit;
3. All ditches, drains, wells, pools, cisterns, bodies or containers of water in which mosquitoes breed or are likely to breed, or which are so constructed, formed, conditioned or situated as to endanger the public health or safety;
4. Rank weeds or grass, carcasses or accumulations of manure, refuse or other things which are, or are likely to be, breeding places for flies, mosquitoes, vermin or disease germs;
5. Any pit, hole or other thing which is so constructed, formed, conditioned and/or situated as to endanger the public safety;
6. Any fire or explosion hazard which endangers the public peace, health, safety or welfare.
7. Any obstruction of public sidewalks by any permanent or temporary means that does not allow a radius of seventy-five percent (75%) of the width of the sidewalk to be open for pedestrian traffic flow.

**8.04.090 Abatement procedure.**

**A. Notice to Abate.** The borough manager or his designee is authorized to notify the owner of any private property within the municipality, or the agent of such owner,

MUNICIPALITY OF SKAGWAY, ALASKA

ORDINANCE NO. 11-22

to abate any nuisance which is occurring on the owner's property. Such notice shall be by certified mail, ~~return receipt~~, addressed to the owner at his last known address as shown on the assessment rolls of the municipality or by hand delivery to the owner or agent of the owner.

- B. Action Upon Noncompliance. Upon the failure, neglect or refusal of any owner or agent so notified to abate the stated nuisance within ten (10) days after receipt of written notice provided for in subsection A, or within ten (10) days after the date of mailing of such notice in the event the same is returned to the municipality because of inability to make delivery thereof, provided the same was properly addressed to the last known address of such owner or agent, the agent designated by the municipality is authorized and empowered to pay for the abatement of the nuisance or to order its abatement by the municipality.
- C. Payment of Charges. When the municipality has ~~effected the abatement of such~~ abated the nuisance, or has paid for its abatement, the actual cost thereof, plus accrued interest at the rate of ten percent (10%) per year from the date of completion of the abatement work, if not paid by such owner prior thereto, shall be charged to the owner of such property on the next regular utility or tax bill forwarded to such owner by the municipality, and such charge shall be due and payable by the owner at the time of payment of such bill.

8.04.100 Penalty.

- A. Violation of any provision of this chapter except Section 8.04.035 shall be a noncriminal infraction, punishable by a civil penalty not in excess of three hundred dollars (\$300.00).
- B. Violation for bear attraction nuisance as set out in Section 8.04.035 shall be charged for as follows:
 

First Offense:	\$50.00
Second Offense within 2 years:	\$100.00
Third and subsequent offenses within 2 years	\$300.00

**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 6<sup>th</sup> day of October, 2011.

*Thomas D Cochran*  
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Thomas D. Cochran, Mayor

ATTEST:

*Emily A. Deach*  
\_\_\_\_\_  
Emily A. Deach, Borough Clerk

(SEAL)

