

Proposed by:	Civic Affairs Committee
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Second Reading:	10/06/2011
Vote: 6 Aye	0 Nay 0 Absent

MUNICIPALITY OF SKAGWAY, ALASKA ORDINANCE NO. 11-21

AN ORDINANCE OF THE MUNICIPALITY OF SKAGWAY, ALASKA AMENDING TITLE 5 BUSINESS LICENSES AND REGULATIONS BY AMENDING CHAPTERS 5.01 THROUGH 5.08.

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 5, Business Licenses and Regulations by amending Chapters 5.01 through 5.20.

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 5.01 General Provisions, Chapter 5.04 Business Licenses, Chapter 5.08 Ground Transportation and Vehicle Rental, Chapter 5.12 Sale of Alcoholic Beverages, and Chapter 5.20 Restricted Businesses are hereby amended as follows.

Chapter 5.01 GENERAL PROVISIONS

Sections:

- 5.01.010 License--Issuance conditioned upon applicant's financial good standing with municipality.
- 5.01.020 License--Renewal.
- 5.01.030 License--Exhibition.
- 5.01.040 License--Transferability.
- 5.01.050 Correction order--Grounds for issuance.
- 5.01.060 License--Suspension or revocation.
- 5.01.070 Appeal to borough assembly.
- 5.01.080 Judicial review.
- 5.01.090 Operation without a license unlawful.
- 5.01.100 Penalties.

5.01.010 License--Issuance conditioned upon applicant's financial good standing with municipality.

No license or permit required by this title shall be issued to any person owing delinquent property taxes, utility bills or rent to the municipality, nor to any person more than one (1) month delinquent in the reporting or remittance of sales taxes to the municipality.

5.01.020 License--Renewal.

Unless otherwise specifically provided in this title, an application for renewal of license shall be considered in the same manner as an original application.

MUNICIPALITY OF SKAGWAY, ALASKA
ORDINANCE NO. 11-21
Page 2 of 23

5.01.030 License--Exhibition.

Every person required to obtain a license hereunder shall exhibit the same at all times, while in force, in some conspicuous part of the place of business for which it is issued, or shall carry such license upon his person at all times when engaged in an activity having no fixed place of business; and he shall produce the same for examination when applying for a renewal, or when requested to do so by an officer of the municipality charged with the enforcement of this chapter.

5.01.040 License--Transferability.

No license granted or issued under any of the provisions of this title shall be in any manner assignable or transferable.

5.01.050 Correction order--Grounds for issuance.

A. Whenever it appears to the borough manager by report filed by any municipal official or other sources that any licensee:

1. Has relinquished legal control of ~~said~~ **the** activity to any other person **or**;
2. Has failed, refused or neglected to comply with any general or special term or condition of the license issued him/**her** or any law of the state or the municipality **or**;
3. Has become delinquent in payment of property taxes, utility bills or rent owed the municipality; or has failed or refused to report and remit sales taxes due the municipality and has become more than one (1) month delinquent in such reporting or remittance;

4. _____ ~~then~~ ~~the~~ **The** borough manager shall immediately issue an order directed to such licensee by certified mail, return receipt, which shall specify:

- a. The term or condition of the license that has been violated,
- b. The corrective action, if any, the licensee may take to prevent suspension or revocation of the license, and the time limited for such corrective action (which shall be no earlier than seven (7) days following date of issuance of the corrective order),
- c. Notification of the penalties provided by this title, and
- d. ~~Description of the method open to the licensee to obtain a hearing~~ **That the licensee may request an informal meeting before the borough manager during the seven day period specified in section 4b above prior to suspension or revocation of the license to allow the licensee to contest the grounds for issuance of the corrective order and to provide the licensee the opportunity to provide information to the manager relevant to the grounds for the corrective order.**

B. Based on new information timely received from the licensee, **or from any other source,** the borough manager may, in his discretion, amend the terms or conditions of the corrective order, **or after consideration of the information provided by the licensee, affirm the corrective order as issued.**

5.01.060 License--Suspension or revocation.

Upon the expiration of the time allowed in a corrective order issued under Section 5.01.050 of this chapter, if the licensee has not complied with the corrective order, the borough manager may suspend or revoke the license. Upon suspension or revocation of any license issued the borough manager shall notify the person whose license has been suspended or revoked by certified mail, ~~return receipt~~ **or by hand delivery.** Following such suspension or revocation and after notification of the licensee, it is unlawful for the licensee to continue to conduct that previously licensed business within the municipality.

- 5.01.070 Appeal to borough assembly.
- A. Any licensee who feels aggrieved by a correction order issued pursuant to Section 5.01.050 or a suspension or revocation issued pursuant to Section 5.01.060 may, within ten (10) days after the date of such order, file a request for hearing before the borough assembly at the office of the borough clerk, together with a brief statement setting forth ~~any matters, of law or of fact, which he deems should relieve him of the effect of such order~~ **the law and facts to be relied upon to seek relief from the correction order, suspension or revocation.**
- B. The borough clerk, upon receipt of such request, shall cause ~~such matter~~ **the hearing** to be placed on the agenda of the first regular meeting of the borough assembly and shall immediately notify the licensee in writing of the time and place of hearing. The operation and effect of the order appealed from shall be suspended immediately upon the filing of such request until final determination by the borough assembly. If no ~~such request~~ **request for a hearing** is filed, such correction order, suspension or revocation shall remain operative according to its terms.
- C. The borough assembly shall ~~hear and receive such evidence as bears upon the issues presented by such order and request for hearing~~ **conduct the hearing informally** and, at **shall issue a decision within fifteen days of** the conclusion of the hearing, ~~shall issue in writing its findings and determination, which shall:~~
1. Confirm the order of the borough manager as issued, ~~whereupon, the~~ suspension for review shall cease and the order **of the borough manager** shall become operative in accordance with its terms and conditions;
 2. Modify the terms and conditions of the order of the borough manager, ~~whereupon, the~~ license shall immediately become subject to the terms and conditions of the modified order; or
 3. ~~Revoke~~ **Reverse** the order of the borough manager, ~~whereupon such~~ **The** licensee shall be ~~revested~~ **permitted to resume operation with initial license authority the terms and conditions as originally issued.**
- D. The assembly's written findings shall set forth the assembly's determination (with respect to each of the grounds stated in the borough manager's correction order) as to the existence of the original violation, and whether the licensee has completed corrective action with respect to each violation found by the assembly.

5.01.080 Judicial review.

~~No later than thirty (30) days following issuance of the assembly's written determination to the licensee, the licensee may file a petition for review with the superior court, First Judicial District, at Juneau. Petitions not timely filed are forever barred.~~ **A final decision of the assembly may be appealed to the Superior Court for the State of Alaska, First Judicial District at Juneau, Alaska, as the court with exclusive jurisdiction of any appeal, and in accordance with the Alaska Rules of Appellate Procedure.**

5.01.090 Operation without a license unlawful.

- A. New Business. After the effective date of this title, it is unlawful for any new business to begin operation within the municipality without any applicable license required by this title.
- B. Existing Businesses. After ninety (90) days following the effective date of this title, it is unlawful for any person, firm or corporation which was doing business in the municipality on or before the effective date of the ordinance codified in this

MUNICIPALITY OF SKAGWAY, ALASKA

ORDINANCE NO. 11-21

Page 4 of 23

title to continue or resume any activity requiring a license under this title without first obtaining such license from the municipality.

- 5.01.100 Penalties.
- A. Any person who failed to timely procure a license may be assessed a civil penalty of ~~one~~ **three** hundred dollars (\$~~300.00~~) **per day** for each ~~week~~ **day** of operation without the required license.
 - B. Any person who fails to conform to the terms and conditions the municipality places upon a license issued hereunder shall be subject to a civil penalty of ~~one~~ **three** hundred dollars (\$~~300.00~~) for each ~~week~~ **day** of violation of such terms or conditions.
 - C. The municipality may seek a court order enjoining the continued operation, within the municipality, of any business whose owner or operator fails to comply with correction orders issued under Section 5.01.050 or terms of the borough assembly decision under Section 5.01.070, or who fails to cease operation following suspension or revocation of a license **under Section 5.01.060 or 5.01.070.**
 - D. ~~Any person who willfully continues to operate without a license, or who continues to operate following the suspension or revocation of a license, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding five hundred dollars (\$500.00) or thirty (30) days in jail, or both.~~

Chapter 5.04
BUSINESS LICENSES

Sections:

- 5.04.010 Business defined.
- 5.04.020 License required--Fee established.
- 5.04.030 License--Renewal.
- 5.04.040 General provisions applicable.

5.04.010 Business defined.

"Business," as used in this chapter, means and includes all activities or acts, personal, professional or corporate, engaged in as a trade, profession, **tour** or business for profit. Business activities that are exempt under the sales tax code are not exempt from the provisions of this chapter. The giving or supplying of services as an employee and the furnishing of property, services, substances or things, by a person who does not hold himself out as regularly engaging in such transactions, does not constitute business within the meaning of this chapter.

5.04.020 License required--Fee established.

- A. It is unlawful for any person, firm or corporation to engage in a business within the municipality without first applying for and obtaining a Municipality of Skagway business license. License to be displayed in accordance with Section 5.01.030.
- B. Separate Licenses Required. A separate license will be required for each entity that files a sales tax return, whether such separate reports are due to municipal requirements, i.e., hotel room tax and miscellaneous sales by the same entity, or by a business owner's choice.
- C. Annual fees are established as follows:
 - 1. General business license will be ten dollars (\$10.00) per business license. All businesses will require a general business license except for those noted in Section 5.04.020(C)(2).
 - 2. Single site rental/lease business license will be ten dollars (\$10.00) per business license. The single site rental/lease business license will be

MUNICIPALITY OF SKAGWAY, ALASKA

ORDINANCE NO. 11-21

Page 5 of 23

issued only to entities who collect sales tax on one rental unit (business or residential) or are required to submit sales tax on a National Park Service Leaseback.

- D. Duration of Business License. Business licenses are effective for a calendar year with all licenses expiring on December 31st.

5.04.030 License--Renewal.

The assembly shall, during the month of December, make a routine annual review of existing business licenses. If the assembly determines that a licensee is in compliance with Section 5.01.010, then his license shall be renewed upon payment of an annual license fee.

5.04.040 General provisions applicable.

The provisions of Chapter 5.01 of this title shall apply to administration of this Chapter 5.04 concerning business licenses.

Chapter 5.08

GROUND TRANSPORTATION AND VEHICLE RENTAL

Sections:

- 5.08.010 Definitions.
- 5.08.020 Motor vehicle rental agencies.
- 5.08.030 Operation of commercial passenger vehicles.
- 5.08.032 Operation of taxicab service.
- 5.08.033 Operation of Limousine Service.
- 5.08.035 Operation of courtesy vehicles.
- 5.08.040 Drivers of commercial passenger vehicles.
- 5.08.045 Non-motorized conveyances/walking tours.
- 5.08.050 General provisions applicable.

5.08.010 Definitions.

A. Definitions:

1. "Bus" means any public vehicle designed, constructed, and or used for the transportation of passengers, with a designed seating capacity of more than fifteen (15) passengers including the driver.
2. "Certificate" means a written certificate of public transportation issued by the municipality authorizing the holder to conduct a public transportation business in the municipality.
3. "Chilkoot Trailhead Service" means transportation to or from the Chilkoot Trail trailhead or the NPS Campground in Dyea of individuals or groups intending an overnight hike on the Chilkoot Trail. Individuals or groups traveling to Dyea for any other purpose are not included in this definition for purposes of the taxicab regulations.
4. "Commercial passenger service" means transportation of passengers for compensation, whether said the compensation is in the form of a contract, published fare, gratuity, or other any financial return or benefit.
5. "Commercial passenger vehicles" means any bus, van, automobile or other motorized conveyance, used to transport passengers used where the cost of automotive vehicle transportation is included in the price of the product sold, and the driver of such vehicles is provided by the operator.
6. "Courtesy vehicle" means a public vehicle owned or operated by hotels, motels, or any place of business that provides overnight accommodation to the public similar to a hotel or motel, for the transportation of their overnight guests and for which no charge is made for the service or, air

MUNICIPALITY OF SKAGWAY, ALASKA

ORDINANCE NO. 11-21

Page 6 of 23

- carrier providing airport transportation to scheduled point-to-point passengers for which no charge is made for the service.
7. "Commercial chauffeur's permit" means the written permission granted by the chief of police or his designee to a person to drive commercial vehicles within the municipality unless the driver is under the exemption listed in SMC 5.08.040(A)(1)(a).
 8. "Holder" means the person(s) to whom a certificate of public transportation has been issued.
 9. "Limousine" means a chauffeur-driven, passenger vehicle, built or modified-for-the-purpose as a limousine on an automobile chassis of a Luxury Sedan (e.g. formal or extended limousine) or as defined and recognized by the industry, with a designed seating capacity for no more than ten passengers and with a minimum of five seats located behind the operator of the vehicle. Such vehicle is used to provide prearranged passenger transportation on a dedicated basis at a "premium fare" as defined by Resolution.
 10. "Limousine Company Permit" means a written permit issued by the municipality authorizing the holder to conduct a limousine service in the municipality.
 11. "Limousine service" shall not be provided on a demand response basis but must be pre-arranged or arranged through a third party for point to point transportation or charter which requires that the vehicle be leased, rented or charged upon for a minimum time period of one hour (60 minutes) and with the fare determined on an hourly basis and not by a meter or mileage for the use of the vehicle.
 12. "Public vehicle" means a vehicle or means of conveyance, operated as a courtesy, or commercial passenger vehicle including but not limited to animal-drawn conveyances or human-powered conveyances, in addition to motor vehicles, offered for commercial passenger service on public streets in which the driver is furnished by the owner or holder. Busses and other vehicles used to transport school children on a contract basis are excluded from the requirements of this chapter.
 13. "Rate card" means a card for display in public vehicle that lists the rate of fare then in force.
 14. "Shuttle" means a public vehicle offered for commercial passenger service usually but not limited to, transportation from dockside to urban area of town or return from urban area of town to dockside subject to conditions of SMC 5.08.040(I).
 15. "Shuttle Business" means a business authorized to offer shuttle services as provided by SMC 5.08.040(I).
 16. "Taxicab or taxi" means a vehicle used for the purpose of transporting passengers for hire, with a driver provided within the corporate limits of the municipality, not operated exclusively over a fixed and defined route, where the destination and route are controlled by the passengers, for which a charge is made.
 17. "Taxi Company Permit" means a written permit issued by the municipality authorizing the holder to conduct a taxicab service in the municipality.
 18. "Tour products" are any means of sightseeing that includes a component of transportation and interpretation. This includes but shall not be limited to bus, van or automobile tours, kayak tours, bicycle tours, flight seeing tours, horseback tours and hiking tours, river rafting or fishing.

MUNICIPALITY OF SKAGWAY, ALASKA

ORDINANCE NO. 11-21

Page 7 of 23

19. "Tour vehicle" means a public vehicle having a total designed seating capacity of not more than fifteen (15) passengers, which offers transportation that is primarily ~~tour-oriented,~~ in conjunction with a tour involving narration and providing return to point of departure.

5.08.020 Motor vehicle rental agencies.

- A. In addition to any applicable requirements of state law, any person engaging in the business of renting motor vehicles to the public shall obtain and maintain a municipal business license pursuant to Chapter 5.04 of this title.
- B. Any person engaging in the business of renting golf carts or golf cart type vehicles shall also comply with municipal requirements outlined in Section 5.08.030 A -- M.
- C. Any person engaging in the business of renting golf carts or golf cart type vehicles shall ensure that:
1. Each renter shall have a driver's license valid in the State of Alaska.
 2. Each renter understands that the cart is to be operated under the rules of the road applicable to motorized vehicles and that traffic violations are punishable by law. A list of rules and regulations will be placed inside each cart.
 3. Carts will not be operated on State Street, 23rd Avenue or on or beyond the bridge over the Skagway River on the Klondike Highway. A map indicating where the carts are allowed will be in each cart. Carts are allowed to cross State Street and 23rd Avenue. Drivers will be cautioned about the dangers of crossing State Street and 23rd Avenue.
 4. Occupancy is limited to the number of seat belts available and limited to the front seat only. Seat belts must be worn by all occupants.
 5. Carts have the phone number of the rental agency and numbers at least six inches (6") tall to identify each cart.
- D. General Provisions:
1. Any person engaging in the business of renting golf carts or golf cart type vehicles shall execute an instrument under the terms that the operator of the golf cart or golf cart type vehicle rental business will agree to indemnify, defend and hold harmless the Municipality of Skagway Borough from any and all claims for injury or damage to persons or property as a result of the rental and/or operation of golf carts or golf cart type vehicles.
 2. Prior to the operation of any rental of golf carts or golf cart type vehicles business owners must provide the Municipality of Skagway Borough with a certificate of insurance showing that the person engaging in the rental of golf carts or golf cart type vehicles have obtained at least five hundred thousand dollars (\$500,000.00) of liability insurance. This certificate must establish that the municipality is named as an additional insured on such policy, and that the insurer thereof shall notify the municipality if the policy is canceled, or terminated.

5.08.030 Operation of commercial passenger vehicles.

- A. Certificate of Public Transportation Required.
1. No person shall operate or permit any vehicle owned or controlled by him to be operated as a commercial passenger vehicle within the municipality without having first obtained a certificate of public transportation from the municipality.

MUNICIPALITY OF SKAGWAY, ALASKA

ORDINANCE NO. 11-21

Page 8 of 23

2. Holders of a currently valid certificate of public transportation must purchase a separate business license under Chapter 5.04 of this title to perform functions authorized by the certificate of public transportation.
- B. Certificate Application. An application for a certificate of public transportation shall be filed with the Skagway Police Department. The applicant will sign and certify that all of the information contained on the form is true and correct, and will include the following:
1. The name and address of the applicant and all principals;
 2. Such further information as the borough manager may require.
- C. Certificate -- Issuance. If the police chief finds that the applicant meets the requirements for a certificate of public transportation as stated in this chapter, the police chief, or his designee shall issue a certificate; otherwise the application shall be denied. Certificates issued shall:
1. State the name and address of the applicant,
 2. The date of issuance,
 3. The class of motor vehicles to be operated,
 4. The number of vehicles authorized under the certificate,
 5. The color scheme or insignia to be used, and
 6. Such additional terms, conditions, provisions and limitations, as the manager deems necessary to protect the public health, safety, welfare and convenience.
- No certificate shall be considered to have been issued until it has been signed by the police chief, or his designee and delivered to the prospective holder.
- D. Certificate -- Term -- Renewal. Every certificate of public transportation issued under this chapter shall expire on the first day of May next following its issuance; certificates of public transportation once issued shall be renewed and reissued by the police chief upon application within a period of sixty (60) days before their expiration date. Reissuance is not automatic but may be denied on grounds set forth in the general licensing provisions in Chapter 5.01 of this title.
- E. Appeal of Denials of Certificates. Denials of certificates are subject to the appeal and judicial review provisions set forth in Chapter 5.01 of this title.
- F. Certificate -- Transfer. No certificate of public transportation may be sold, assigned, mortgaged or otherwise transferred without the consent of the assembly.
- G. Certificate -- Suspension and Revocation. A certificate issued under the provisions of this section may be amended, suspended or revoked by the police chief if the police chief finds that the holder thereof has violated any provisions of this chapter.
1. The appeal and judicial review provisions of Chapter 5.01 of this title shall be applicable to amendments, suspensions and revocations of certificates of public transportation.
- H. Certificate and License Fee.
1. No certificate of transportation shall be issued or continued in operation unless the holder has paid an annual certificate fee as established by resolution for the right to engage in the public transportation business and the required fee for each vehicle operated under a certificate as set by resolution.
 2. The vehicle license fee shall not be prorated; it shall expire on the first day of May next following its issuance and shall be in addition to any other license fees or charges established by proper authority and applicable to the holder or vehicles under his operation or control.
- I. Vehicle Equipment and Maintenance.

MUNICIPALITY OF SKAGWAY, ALASKA

ORDINANCE NO. 11-21

Page 9 of 23

1. License Required. It is unlawful for any person to operate any vehicle required to be examined under this chapter, as a commercial passenger vehicle or courtesy vehicle without first securing and having attached a current license issued by the police department as herein required.
 2. License fee: failure to pay the license fee within 30 days of invoice shall result in the suspension of the vehicle license.
 3. Initial Safety Inspection. Prior to the use or operation of any vehicle under the provisions of this chapter, the vehicle shall be examined by the police department for compliance with the basic equipment safety standards of state motor vehicle regulations, municipal motor vehicle code, and such further regulations governing the safety and cleanliness of commercial passenger and courtesy vehicles as the borough assembly may from time to time prescribe by resolution. This safety inspection may be waived by the Police Department if, the certificate of transportation holder provides an authorized document signed by a municipal authorized certified mechanic that the vehicle's condition meets or exceeds basic safety standards. This inspection must be dated within the preceding six months. When the police department determines that a vehicle has met the applicable standards, the department shall issue a license, which states the authorized seating capacity of the vehicle, the class of the vehicle, the date of examination for that particular vehicle and such other particulars as are material to identification thereof.
 - a. Owners and operators of vehicles regulated by the Federal Motor Carrier Safety Regulations shall be exempt from complying with the certification requirements of this chapter so long as the owner or operator of the vehicle demonstrates that the federal regulations applicable to the vehicle are, at a minimum, equivalent to the regulations in this chapter regarding vehicle safety requirements, and provides the municipality with current certificates of inspection by a DOT Certified Mechanic.
 4. Periodic Examinations. Every vehicle operated under this chapter may be periodically examined by the police department at such reasonable intervals as determined by the chief of police to insure that public vehicles are being properly maintained.
 5. Re-examination -- Fee. If a vehicle fails an examination it shall not be operated upon municipal streets as a public vehicle until it passes re-examination. The re-examination fee shall be set by resolution.
- J. Identification of Vehicles.
1. Except as provided in Section 5.08.040(J), each vehicle regulated by this chapter shall be so identified as to allow immediate determination as to the identity of the business name of the holder operating it. Each public vehicle shall bear, in such a manner as to be visible from both exterior sides, in professional quality painted letters, decals or magnetic signs not less than three (3) inches in height, the business name of the owner. Any signs held in place by any other temporary means on the exterior of the vehicle, or on any window surface shall be in violation of this code.
 2. When a vehicle regulated by this chapter is disposed of by the owner by sale or otherwise and is no longer in use by the owner, the owner shall remove all identification required by this chapter prior to disposition.
- K. Certificate -- Liability Insurance Required.
1. No certificate of public transportation shall be issued or continued in operation unless there is presented to the Municipality of Skagway a

certificate of insurance showing that the business owner/operator has obtained at least five hundred thousand dollars (\$500,000.00) of combined single limit liability insurance. This certificate of insurance must establish that the municipality is named as an additional insured on such policy, and that the insurer thereof shall notify the municipality twenty (20) days before the policy is canceled, or terminated. Additionally, the certificate of insurance holder shall execute an instrument under the terms of which the holder will agree to indemnify, defend and hold harmless the Municipality of Skagway Borough from any and all claims for injury or damage to persons or property as a result of the holder's activities. If a carrier to which this code section applies also meets the definition of a commercial motor carrier under 49 CFR 390.5 and/or AS 28.33.190 then the carrier must comply with all federal and state regulations for liability insurance, as listed in 49 CFR 387 and/or AS 19.10.300.

2. The business must have current certificates of insurance on file with the police department before the owner/operator can transport any passengers within the boundaries of the municipality. The liability insurance policy must be issued by an insurance company authorized to do business in the State of Alaska.

L. Driver Roster –All operators of commercial passenger and courtesy vehicles must provide to the Skagway Police Department a roster of all drivers currently employed. Any changes in this roster shall be reported to the Skagway Police Department within five (5) working days of the change.

5.08.032 Operation of taxicab service.

A. Taxi Company Permit Required.

1. No person shall operate or permit any vehicle owned or controlled by him to be operated as a taxicab within the municipality without having first obtained a taxi company permit from the municipality.
2. Holders of a currently valid taxi company permit must purchase a separate business license under Chapter 5.04 of this title to perform functions authorized by the taxi company permit.
3. Exemptions. Chilkoot Trailhead Service shall be exempt from the taxi requirements of this chapter provided:
 - a. Providers of this service conform to all solicitation regulations of SMC 5.08.032(V)(1);
 - b. Rates for this service shall be based solely upon a per-passenger fee;
 - c. The minimum per-passenger fee shall be \$10.00; and
 - d. Providers of this service must also offer Log Cabin/Fraser B.C. pick-up.
 - i. Log Cabin/Fraser Service – Pick-up service at Log Cabin or Fraser must be provided at a rate that is reasonable and competitive in the current market. If a provider of this service is unable to provide the service to any individual or group, the provider shall assist that individual or group in making other arrangements. If unsuccessful in securing other arrangements, the provider shall transport the individual or group at a rate that is reasonable and competitive.

MUNICIPALITY OF SKAGWAY, ALASKA

ORDINANCE NO. 11-21

Page 11 of 23

- B. Permit Application. An application for a taxi company permit shall be filed with the Skagway Police Department. The applicant will sign and certify that all of the information contained on the form is true and correct, and will include the following:
 - 1. The name and address of the applicant and all principals;
- C. Permit – Issuance. If the police chief finds that the applicant meets the requirements for a taxi company permit as stated in this chapter, the police chief, or his designee shall issue a permit; otherwise the application shall be denied. No permit shall be considered to have been issued until it has been signed by the police chief, or his designee and delivered to the prospective holder. Permits issued shall:
 - 1. State the name and address of the applicant;
 - 2. The date of issuance;
 - 3. The year, make, model, VIN number and license plate number of each vehicle authorized for operation;
 - 4. The number of vehicles authorized under the permit; and
 - 5. The color scheme or insignia, no larger than 1 square foot, to be used.
- D. Permits.
 - 1. FEES FOR PERMIT. The Permit Fee shall be \$500 per permit, plus \$50 per vehicle.
 - 2. Term – Renewal. Every permit issued under this chapter shall expire on February 14 next following its issuance; permits once issued shall be renewed and reissued by the police chief upon application. An application to renew a current permit for continuous operation shall be submitted between November 1 and December 31 and shall become effective on February 15 of the following year.
- E. Number of Vehicles. Each permittee shall have 2 vehicles but no more than 5.
- F. Size of Vehicles. Vehicles shall not carry more than 9 passengers or exceed 19 feet in length.
- G. Permits Limited.
 - 1. The number of taxi company permits issued under this chapter shall not exceed two. The maximum number of permits may be increased by the assembly as determined necessary to meet the needs of the citizens.
 - a. The assembly may consider a request for an increase in the maximum number of permits based upon an application for a permit. If the assembly determines that the application establishes reasonable grounds to believe that an additional permit should be issued the assembly shall schedule a public hearing on the application. At the hearing, the applicant has the burden of proving by clear and convincing evidence that the public convenience and necessity requires the issuance of an additional permit. Any interested person may testify at the hearing.
 - b. If the assembly determines that the public convenience and necessity would be served, it shall direct the issuance of a permit for a probationary period of ninety days. At the end of the probationary period, the assembly shall be provided with full and complete records of all passengers carried and other requested materials. If the assembly determines that the operation is satisfactory and that the need for additional service has been established, a permit shall be issued in accordance with Section 5.08.032(C).

2. No person may hold or own, directly or indirectly, any interest in more than one taxi company permit issued. A person is an indirect owner of an interest in a taxi company permit if the permit is owned by a spouse or domestic partner, or if that person is a partner or shareholder of an issued permit.

Attorney Comment: I am not sure if this is the correct language to use, but it seems with the case law extending benefits to same sex partners, we should similarly define an "indirect owner" in the same way. Tom, Emily or the Assembly may have different preferable language.

- H. Proof of insurance. There shall be submitted with an application for a permit, policies of liability or indemnity insurance providing coverage and protection against loss through personal injury or property damage arising from negligence on the part of the owner of all vehicles to be operated by virtue of permit, such insurance to afford coverage in an amount not less than \$1,000,000 for all personal injuries sustained in any one accident, \$100,000 for property damage arising out of one accident, and \$100,000 for all persons injured or who died in any one accident caused by an uninsured motorist. Each policy shall further contain a clause, addendum or endorsement providing that the insurer give written notice of the cancellation, revocation, termination or expiration of that policy, such notice to be submitted to the Police Department not later than 30 days prior to such eventuality.
 1. The Municipality of Skagway Borough ~~will be~~ **shall be listed as an additional insured and the permittee shall provide the municipality with the certificate showing the municipality as an additional insured within 30 days of issuance of the permit. The failure to provide the proof of insurance in accordance with this section shall constitute immediate grounds for suspension of the permit by the manager upon written notice to the permittee.**
- I. Qualifications of applicant. An applicant for a permit, including all partners and all officers, directors, and persons holding a controlling interest in a corporation, partnership, or association shall possess the following qualifications:
 1. Not be addicted or habituated to the use of intoxicants, narcotics, or hallucinogenic drugs;
 2. Have a list of not less than 5 personal or professional references to character and reputation;
 3. Have had no felony conviction for five years prior to the date of application and no conviction at any time of a felony or misdemeanor involving sexual misconduct, assault with a deadly or dangerous weapon, use of a or traffic in narcotics or dangerous drugs, or traffic in persons for immoral purposes;
 4. Be at least 21 years of age.
 5. Applicants shall provide state police record printouts.
- J. Vehicle equipment and inspection. All permit holders shall conform to the requirements of SMC 5.08.030. Annual inspections are required within 3 months of permit issuance or renewal.
 1. A light of not less than two (2) candle power shall be arranged so as to illuminate the entire passenger compartment of the vehicle while passengers are entering or exiting the vehicle.
 2. No sight-obscuring shades or blinds or glazing materials may obstruct vision into the interior of the vehicle from the exterior of the vehicle.

MUNICIPALITY OF SKAGWAY, ALASKA

ORDINANCE NO. 11-21

Page 13 of 23

3. No person may operate a taxicab unless such vehicle is in a safe, clean condition.
4. Taxicab must be free of body damage.
- K. Vehicle marking.
 1. A taxi shall be equipped with a top light in the form of a box showing the single word "taxi" facing forward.
 2. Each taxicab shall bear the word "Taxi", and a local telephone number on each side of the taxicab with permanent letters no less than 3 inches high and the company name shall be displayed in permanent letters no greater than 2 inches high. No other words, or numerals can be displayed except those required by local, state or federal officials.
 3. No attached signs will be allowed on vehicle.
 4. No commercial advertising allowed that can be viewed from the outside of the vehicle.
 5. No detachable signs may be used.
- L. Transfer, lease, or change of taxi company permit. A permittee may not sell, transfer, lease, assign or otherwise grant any right or interest in or to a taxi company permit.
- M. Dispatch and records.
 1. The identity of the location of the terminal or dispatch office from which the vehicles are to operate or whether they will be dispatched by cellular phone,
 2. The applicant will establish and maintain a central radio dispatch office or will operate dispatch by cellular phone, keeping a daily log;
 3. Written record of all dispatches of vehicles operated under permit;
 4. For each request for service, the time and place of passenger pickup and delivery, the number of passengers and the amount of fare received;
 5. All records must be preserved for two years and will be made available to the municipality upon request.
- N. Maximum number of hours per day. No driver may operate a taxicab in excess of 12 hours nor perform any gainful occupation for more than 12 consecutive hours in any 24- hour period.
- O. Duty to serve public. No driver of a taxicab may refuse or neglect to convey any orderly person upon request if the proper fee is tendered by such person unless the driver is engaged or would violate this chapter conveying such person.
- P. Alcoholic beverages and controlled substances.
 1. No driver of a taxicab may drink alcoholic beverages or be under the influence of a depressant, hallucinogenic, stimulant or narcotic drug, or any controlled substance as defined by AS 28.35.030 while on duty or for eight hours prior to operating a taxicab.
 2. No passenger may use a depressant, hallucinogenic, stimulant or narcotic drug, or any controlled substance as defined by AS 28.35.030 while riding in a taxicab.
 3. Smoking prohibited in taxicabs for hire, prominently display no-smoking signs inside all taxicabs for hire.
- Q. Exclusive use of taxicab. A driver of a taxicab shall allow no more than one passenger or one group of passengers, except driver trainees, at any one time without the express consent of that passenger or group.
- R. FARES. Minimum fares shall be set by the assembly. Fares shall be set by the permit holder, but must be posted with the police department. The police department shall be informed of change of fares prior to their implementation.

MUNICIPALITY OF SKAGWAY, ALASKA

ORDINANCE NO. 11-21

Page 14 of 23

1. Fare posted. A rate card shall be posted prominently in each taxicab beside the driver identification.
 2. Fare receipts. On request of any passenger paying a fare, a receipt indicating the fare received, date, company and driver's name shall be provided.
 3. SIGHTSEEING / TOURS. Sightseeing or tours requested by passengers shall be accommodated at the charter rate, and under the limitations of subsection W(4). Such rates shall not qualify for the sales tax exemption 4.08.060(A)(16), and sales tax shall be collected for such.
- S. Driver qualifications for taxicab.
1. Chauffeur's or CDL required plus the following additional stipulations:
 - a. Be at least 21 years of age,
 - b. Possess a valid state of Alaska driver's license
 - c. Place or places of residence for the past two years
 - d. Concise history of employment for the previous five years
 - e. Possess a medical certificate establishing the applicant's health meets the minimum standards of 13 AAC 08.025.
 - f. Submit to a municipal-approved drug testing facility or contractor a urine sample to be tested for the presence of prohibited drugs.
 2. A person is not qualified to operate a taxi if:
 - a. The person has been convicted of an offense involving traffic in persons for immoral purposes, prostitution, pimping, or other sexual offences; or
 - b. The person has been convicted of a felony involving a crime of violence; or
 - c. The person has been convicted of a felony, any portion of the sentence of which was served within five years immediately preceding the application; or
 - d. The person is habituated or addicted to alcohol, narcotics, or dangerous drugs; or
 - e. The person tests positive for the presence of one or more prohibited drugs in his or her urine.
- T. Drug testing.
1. Pre-licensing drug tests. The applicant's employer must certify the applicant has passed the drug test.
 2. Post accident drug tests.
- U. Display of identification. All taxi drivers are required to display identification and licenses in a conspicuous location within the vehicle visible to all passengers
- V. Prohibited.
1. Solicit passengers for hire or attract or attempt to attract the attention of members of the public by word of mouth, signal, nod, or other demonstration while in motion or parked.
 2. Driver cannot purchase alcohol beverages while in service in a permitted vehicle, except that a passenger paying a fare may purchase and transport unopened alcoholic beverages; or
 3. Knowingly allow passengers to consume alcoholic beverages in the taxicab.
 4. Knowingly violate or knowingly allow a passenger to engage in conduct that would violate AS 28.35.029 (Open container).
 5. Operate or move taxicab at a time when the vehicle has more occupants than seat belts installed by the vehicle's manufacturer.
- W. Taxicab service.

MUNICIPALITY OF SKAGWAY, ALASKA

ORDINANCE NO. 11-21

Page 15 of 23

1. All persons engaged in the taxicab business in the municipality operating under the provisions of this chapter shall provide for an overall safe service to the public desiring to use such vehicles, and such service shall be provided twenty four hours per day, each day of the year.
2. Holders of taxicab permits shall maintain a central place of business and the same may be mobile and shall be kept open twenty four hours per day, each day of the year, for purpose of receiving calls and dispatching cabs.
3. Holders of taxicab permits shall answer all calls received by them for services inside the corporate limits of the municipality as soon as they can do so, and if the services cannot be rendered within reasonable time they shall notify the prospective passengers how long it will be before the call can be answered and give reason therefore. (weather depending)
4. Between May 1st and September 30th of each year the operator is licensed, at least two vehicles must be available for dispatch at all times. During the remainder of the year, only one vehicle need be available for dispatch at any time.

- X. Seatbelts and child safety restraints. - Required
- Y. Taxi Zones. Taxi Zones are limited to taxicabs only.
- Z. Parking Regulations. Taxicab companies must abide by all applicable parking regulations.
- AA. Appeals. Section 5.01.050 Shall apply under this chapter.
- BB. Assembly Review. Assembly shall hold at least one public hearing annually on or prior to August 15 to investigate the quality of services and minimum fares offered by taxicab companies in the municipality.

5.08.033 Operation of limousine service.

- A. Limousine Company Permit Required.
 1. No person shall operate or permit any vehicle owned or controlled by him to be operated as a limousine within the municipality without having first obtained a limousine company permit from the municipality.
 2. Holders of a currently valid limousine company permit must purchase a separate business license under Chapter 5.04 of this title to perform functions authorized by the limousine company permit.
- B. Permit Application. An application for a limousine company permit shall be filed with the Skagway Police Department. The applicant will sign and certify that all of the information contained on the form is true and correct, and will include the following:
 1. The name and address of the applicant and all principals;
- C. Permit – Issuance. If the police chief finds that the applicant meets the requirements for a limousine company permit as stated in this chapter, the police chief, or his designee shall issue a permit; otherwise the application shall be denied. No permit shall be considered to have been issued until it has been signed by the police chief, or his designee and delivered to the prospective holder. Permits issued shall:
 1. State the name and address of the applicant;
 2. The date of issuance;
 3. The year, make, model, VIN number and license plate number of each vehicle authorized for operation;
 4. The number of vehicles authorized under the permit.
- D. Permits.

MUNICIPALITY OF SKAGWAY, ALASKA

ORDINANCE NO. 11-21

Page 16 of 23

1. FEES FOR PERMIT. The Permit Fee shall be \$500 per permit, plus \$50 per vehicle.
 2. Term -- Renewal. Every permit issued under this chapter shall expire on May 1 next following its issuance; permits once issued shall be renewed and reissued by the police chief upon application.
- E. Number of Vehicles. Each permittee shall have no more than 5 vehicles.
- F. Permits Limited.
1. The number of limousine company permits issued under this chapter shall not exceed two. The maximum number of permits may be increased by the assembly as determined necessary to meet the needs of the citizens.
 - a. The assembly may consider a request for an increase in the maximum number of permits based upon an application for a permit. If the assembly determines that the application establishes reasonable grounds to believe that an additional permit should be issued the assembly shall schedule a public hearing on the application. At the hearing, the applicant has the burden of proving by clear and convincing evidence that the public convenience and necessity requires the issuance of an additional permit. Any interested person may testify at the hearing.
 - b. If the assembly determines that the public convenience and necessity would be served, it shall direct the issuance of a permit for a probationary period of ninety days. At the end of the probationary period, the assembly shall be provided with full and complete records of all passengers carried and other requested materials. If the assembly determines that the operation is satisfactory and that the need for additional service has been established, a permit shall be issued in accordance with Section 5.08.033(C).
 2. No person may hold or own, directly or indirectly, any interest in more than one limousine company permit issued. A person is an indirect owner of an interest in a limousine company permit if the permit is owned by a spouse **or domestic partner**, or if that person is a partner or shareholder of an issued permit.
- Attorney Comment:** I am not sure if this is the correct language to use, but it seems with the case law extending benefits to same sex partners, we should similarly define an "indirect owner" in the same way. Tom, Emily or the Assembly may have different preferable language.
- G. Proof of insurance. There shall be submitted with an application for a permit, policies of liability or indemnity insurance providing coverage and protection against loss through personal injury or property damage arising from negligence on the part of the owner of all vehicles to be operated by virtue of permit, such insurance to afford coverage in an amount not less than \$1,000,000 for all personal injuries sustained in any one accident, \$100,000 for property damage arising out of one accident, and \$100,000 for all persons injured or who died in any one accident caused by an uninsured motorist. Each policy shall further contain a clause, addendum or endorsement providing that the insurer give written notice of the cancellation , revocation, termination or expiration of that policy, such notice to be submitted to the Police Department not later than 30 days prior to such eventuality.

MUNICIPALITY OF SKAGWAY, ALASKA

ORDINANCE NO. 11-21

Page 17 of 23

1. The Municipality of Skagway Borough ~~will be~~ **shall be listed as an additional insured and the permittee shall provide the municipality with the certificate showing the municipality as an additional insured within 30 days of issuance of the permit. The failure to provide the proof of insurance in accordance with this section shall constitute immediate grounds for suspension of the permit by the manager upon written notice to the permittee.**
- H. Qualifications of applicant. An applicant for a permit, including all partners and all officers, directors, and persons holding a controlling interest in a corporation, partnership, or association shall possess the following qualifications:
1. Not be addicted or habituated to the use of intoxicants, narcotics, or hallucinogenic drugs;
 2. Have a list of not less than 5 personal or professional references to character and reputation;
 3. Have had no felony conviction for five years prior to the date of application and no conviction at any time of a felony or misdemeanor involving sexual misconduct, assault with a deadly or dangerous weapon, use of a or traffic in narcotics or dangerous drugs, or traffic in persons for immoral purposes;
 4. Be at least 21 years of age.
 5. Applicants shall provide state police record printouts.
- I. Vehicle equipment and inspection. All permit holders shall conform to the requirements of SMC 5.08.030. Annual inspections are required within 3 months of permit issuance or renewal.
1. A light of not less than two (2) candle power shall be arranged so as to illuminate the entire passenger compartment of the vehicle while passengers are entering or exiting the vehicle.
 2. No person may operate a limousine unless such vehicle is in a safe, clean condition.
 3. Limousines must be free of body damage.
- J. Limousine Vehicle marking.
1. No attached signs will be allowed on a limousine.
 2. No commercial advertising allowed that can be viewed from the outside of a limousine.
 3. No detachable signs may be used on a limousine.
- K. Transfer, lease, or change of limousine company permit. A permittee may not sell, transfer, lease, assign or otherwise grant any right or interest in or to a limousine company permit.
- L. Maximum number of hours per day. No driver may operate a limousine in excess of 12 hours nor perform any gainful occupation for more than 12 consecutive hours in any 24- hour period.
- M. Alcoholic beverages and controlled substances.
1. No driver of a limousine may drink alcoholic beverages or be under the influence of a depressant, hallucinogenic, stimulant or narcotic drug, or any controlled substance as defined by AS 28.35.030 while on duty or for eight hours prior to operating a limousine.
 2. No passenger may use a depressant, hallucinogenic, stimulant or narcotic drug, or any controlled substance as defined by AS 28.35.030 while riding in a limousine.
 3. Smoking prohibited in limousine for hire, prominently display no-smoking signs inside all limousines for hire.

MUNICIPALITY OF SKAGWAY, ALASKA

ORDINANCE NO. 11-21

Page 18 of 23

- N. Exclusive use of limousine. A driver of a limousine shall allow no more than one passenger or one group of passengers, except driver trainees, at any one time without the express consent of that passenger or group.
- O. FARES. Minimum fares shall be set by the assembly.
 - 1. Fares shall be set by the permit holder, but must be posted with the police department. The police department shall be informed of change of fares prior to their implementation.
 - 2. SIGHTSEEING / TOURS. Sightseeing or tours requested by passengers shall be accommodated at the charter rate, and under the limitations of subsection W(4). Such rates shall not qualify for the sales tax exemption 4.08.060(A)(16), and sales tax shall be collected for such.
- P. Driver qualifications for limousine.
 - 1. Chauffeur's or CDL required plus the following additional stipulations:
 - a. Be at least 21 years of age,
 - b. Possess a valid state of Alaska driver's license
 - c. Place or places of residence for the past two years
 - d. Concise history of employment for the previous five years
 - e. Possess a medical certificate establishing the applicant's health meets the minimum standards of 13 AAC 08.025.
 - f. Submit to a municipal-approved drug testing facility or contractor a urine sample to be tested for the presence of prohibited drugs.
 - 2. A person is not qualified to operate a limousine if:
 - a. The person has been convicted of an offense involving traffic in persons for immoral purposes, prostitution, pimping, or other sexual offences; or
 - b. The person has been convicted of a felony involving a crime of violence; or
 - c. The person has been convicted of a felony, any portion of the sentence of which was served within five years immediately preceding the application; or
 - d. The person is habituated or addicted to alcohol, narcotics, or dangerous drugs; or
 - e. The person tests positive for the presence of one or more prohibited drugs in his or her urine.
- Q. Drug testing.
 - 1. Pre-licensing drug tests. The applicant's employer must certify the applicant has passed the drug test.
 - 2. Post accident drug tests.
- R. Display of identification. All limousine drivers are required to display identification and licenses in a conspicuous location within the vehicle visible to all passengers
- S. Prohibited.
 - 1. Solicit passengers for hire or attract or attempt to attract the attention of members of the public by word of mouth, signal, nod, or other demonstration while in motion or parked.
 - 2. Driver cannot purchase alcohol beverages while in service in a permitted vehicle, except that a passenger paying a fare may purchase and transport unopened alcoholic beverages; or
 - 3. Knowingly violate or knowingly allow a passenger to engage in conduct that would violate AS 28.35.029 (Open container).
 - 4. Operate or move a limousine at a time when the vehicle has more occupants than seat belts installed by the vehicle's manufacturer.
- T. Child safety restraints. - Required

MUNICIPALITY OF SKAGWAY, ALASKA

ORDINANCE NO. 11-21

Page 19 of 23

- U. Parking Regulations. Limousine companies must abide by all applicable parking regulations.
 - V. Appeals. Section 5.01.050 Shall apply under this chapter.
 - W. Assembly Review. Assembly shall hold at least one public hearing annually on or prior to August 15 to investigate the quality of services and minimum fares offered by limousine companies in the municipality.
- 5.08.035 Operation of courtesy vehicles.
- A. Vehicle Equipment and Maintenance – All operators of courtesy vehicles shall conform to the requirements of SMC 5.08.030(l).
 - B. Licensing of Drivers of Courtesy Vehicles – Any operator of a courtesy vehicle or operator of a transportation service whose services are not used in conjunction with a tour product shall only be required to have an Alaska Driver's License.
 - C. Liability Insurance Required.
 - 1. All operators of courtesy vehicles must present to the Municipality of Skagway a certificate of insurance showing that the business owner/operator has obtained at least five hundred thousand dollars (\$500,000.00) of combined single limit liability insurance. This certificate of insurance must establish that the municipality is named as an additional insured on such policy, and that the insurer thereof shall notify the municipality twenty (20) days before the policy is canceled, or terminated. Additionally, the certificate of insurance holder shall execute an instrument under the terms of which the holder will agree to indemnify, defend and hold harmless the Municipality of Skagway Borough from any and all claims for injury or damage to persons or property as a result of the holder's activities. If a carrier to which this code section applies also meets the definition of a commercial motor carrier in 49 CFR 390.5 and/or AS 28.33.190 then the carrier must comply with all federal and state regulations for liability insurance listed in 49 CFR 387 and/or AS 19.10.300.
 - 2. The business must have current certificates of insurance on file with the police department before the owner/operator can transport any passengers. The liability insurance policy must be issued by an insurance company authorized to do business in the State of Alaska.
- 5.08.040 Drivers of commercial passenger vehicles.
- A. Chauffeur's -- Permit Required.
 - 1. No person shall operate any commercial passenger vehicle for the transportation of commercial passengers within the municipality, without a valid chauffeur's permit issued by the municipality. Neither may any person who owns or controls any vehicle used for the transportation of persons for commercial passenger service permit it to be operated unless the driver has in his possession a valid chauffeur's permit. The chauffeur's permit shall be shown to police officers upon request.
 - a. Exemptions – Any driver of a commercial passenger vehicle holding a valid "State issued" Commercial Drivers License, shall not be required to obtain a chauffeur's permit.
 - 2. Chauffeur's holding a currently valid chauffeur's permit from the municipality who are employees of a business holding a valid certificate of transportation, need not obtain a separate business license under Chapter 5.04 of this title to perform functions authorized by the chauffeur's permit.

MUNICIPALITY OF SKAGWAY, ALASKA

ORDINANCE NO. 11-21

Page 20 of 23

- B. Application for Chauffeur's Permit.
 - 1. Applications for all municipal chauffeur's permits issued under this chapter must be made to the chief of police. The applicant will sign and certify that all of the information contained on the form is true and correct, and will include the following:
 - a. Name and address of the applicant;
 - b. Place or places of residence for the past three (3) years;
 - c. Date of birth;
 - d. Any other facts or information the borough manager may require;
 - e. A health certificate from a physician or physician's assistant certifying that the applicant has good eyesight and hearing, has no disability or disease which would adversely affect his ability to operate a public vehicle and that the applicant is not afflicted with any communicable disease. The health certificate is adequate for two (2) years following its issuance. Any driver driving under the CDL exception listed above, 5.08.040(A)(1)(a), shall have in his possession a medical certificate issued within the previous (2) years by a physician.
 - 2. At the time the application is filed the applicant shall pay to the police department an application fee as set by resolution.
- C. Current Alaska Motor Vehicle Operator's License Required. All chauffeur's permit applicants shall have a valid Alaska Motor Vehicle Operator's License. This shall not apply to non-motorized vehicles.
- D. Chauffeur's Permit -- Consideration of Application.
 - 1. In order to qualify for a chauffeur's permit, an applicant must demonstrate that he is a safe and satisfactory driver of a public vehicle. As a minimum standard an applicant must:
 - a. Be at least nineteen (19) years of age;
 - b. Be a careful and experienced driver with at least three (3) years driving experience;
 - c. Not have been convicted within the preceding three (3) years of reckless driving, leaving the scene of an accident or driving while under the influence of intoxicants, drugs or narcotics.
 - 2. If the application is denied, the chief of police shall state in writing to the applicant the reason for denial. Denials are subject to the appeal and judicial review provisions set forth in Chapter 5.01 of this title.
- E. Chauffeur's Permit -- Issuance -- Duration -- Annual Fee.
 - 1. Upon approval of an application for a chauffeur's permit, the chief of police, or his designee shall issue a permit to the applicant bearing the name, signature and photograph of the applicant. Permits issued to drivers of non-motorized vehicles shall state upon the permit "NON-MOTORIZED VEHICLE ONLY." Driver's who have a "Non-motorized Vehicle Only" endorsement are prohibited from driving motorized vehicles under this chapter.
 - 2. Such permit shall expire on the first day of May next following its issuance. A permit for each year thereafter shall be issued upon the payment of an annual permit fee as set by resolution, unless the permit for the preceding year was revoked. There shall be no prorating of the fee.
- F. Chauffeur's Permit -- Issuance of Temporary Permit. The police department may issue a temporary chauffeur's permit, good for a maximum period of Thirty (30) days, pending the completion of the steps indicated in subsection (D) and (E)

MUNICIPALITY OF SKAGWAY, ALASKA

ORDINANCE NO. 11-21

Page 21 of 23

above, if the public convenience and necessity is thereby served, and the public interest requires it.

- G. **Chauffeur's Permit – Suspension and Revocation.**
 - 1. The chief of police is hereby given the authority to suspend or revoke any chauffeur's permit issued under this section, in the event that any of the requirements of this section are not fulfilled.
 - 2. The appeal and judicial review provisions of Chapter 5.01 of this title shall be applicable to suspensions and revocations of chauffeur's permits.
- H. **Solicitation, Acceptance and Discharge of Passengers. Policy:** This code is intended to meet the following polices:
 - a. to provide a desirable commercial service to visitors to the Municipality of Skagway;
 - b. to provide for the orderly administration of tour vendors in the downtown waterfront area;
 - c. To ensure that vending uses shall remain incidental to the other uses of the downtown waterfront area, namely pedestrian, vehicular and recreational access to the waterfront area;
 - d. to assure fair treatment of persons wishing to sell tours in the downtown waterfront area;
 - e. to establish a tour vendor system, which is beneficial to both the Municipality of Skagway and the visitors of the Municipality of Skagway.
 - 1. **Prohibited Solicitation.** Drivers of public vehicles, tour company employees or their agents, are prohibited from selling or offering for sale anything upon the public streets or sidewalks. Solicitation by signs, other than those required by Sections 5.08.030(J)(1) and (K)(1), are prohibited. Drivers of public vehicles shall not solicit business for any place of public accommodation, or attempt to divert patronage from one place of public accommodation to another, or attempt to divert patronage from one tour operator to another.
 - 2. **Receipt and Discharge of Passengers.**
 - a. Drivers of commercial passenger, or courtesy vehicles shall not receive or discharge passengers on the roadway, but shall pull up to the right-hand sidewalk as nearly as possible, or in the absence of a sidewalk, to the extreme right-hand side of the roadway and there receive and discharge passengers.
 - b. Drivers of SMART vehicles shall comply with 5.08.040(H)(2)(a) above and shall only use the designated SMART stops while on Broadway for receipt and discharge of passengers.
 - 3. **Restriction on Number of Passengers.** Drivers shall not permit more persons to be carried in a commercial passenger vehicle than the rated seating capacity as stated in the license for said vehicle issued by the police department.
- I. **Operation of Shuttle Businesses – Authority to operate a shuttle business** shall be granted by the signing of a contract with the Municipality of Skagway, and the payment of fees. Contract provisions shall be determined by the borough manager and approved by the borough assembly. Any shuttle business operating without said contract shall be found in violation of this section.
- J. **Drivers -- Compliance with Municipal, State and Federal Laws.** Every driver granted a chauffeur's permit under this chapter shall comply with all municipal, state and federal laws. Failure to do so will justify the suspension or revocation of a permit.

MUNICIPALITY OF SKAGWAY, ALASKA

ORDINANCE NO. 11-21

Page 22 of 23

- K. Penalties for Violations. For any and every violation of the provisions of this chapter, the owner, agent, driver or contractor may be subject to a fine of up to three hundred dollars (\$300.00) for each violation.

5.08.045 Non-motorized conveyances/walking tours.

- A. Non-Motorized Conveyances. There shall be no non-motorized conveyances used primarily for the purpose of point-to-point transportation in the Municipality of Skagway except as outlined below.
 - 1. Grandfathered:
 - a. Skagway Carriage Company – owned and operated by John R. Garland, Sharon A. Garland, Jauna R. Doland and Alane G. Silva.
 - 2. Limitation of conveyances. Provided that the number of conveyances operated by each company shall be capped at the level operated during the visitor season of 2004.
 - 3. Certificate of Public Transportation Required. The provisions of SMC 5.08.030, Operation of Commercial Passenger Vehicles shall apply where appropriate, as determined by the Chief of Police.
- B. Walking Tours. There shall be no walking tours of any kind in the Skagway Historic District except as outlined below.
 - 1. Grandfathered:
 - a. Red Onion Saloon
 - 2. Limitation of tours and tour group sizes. Provided that the number of tours operated by each company shall not exceed 120 people in any day, with a limit per tour of 20 people each, or the maximum daily number offered in 2004, whichever is less.
2004 Tour Numbers:
Red Onion Saloon – Maximum of 8 per day @ 20 people each.
 - 3. Exempted. The National Park Service walking tours shall be exempted under this chapter. Terms and conditions for NPS walking tours will be established and/or modified under separate agreement with the borough assembly.
 - 4. Public Use Rights. The adoption of this ordinance in no way infringes on the public's rights to free use of the public streets, sidewalks and rights-of-way.
- C. Transfer. No rights conveyed under this ordinance shall be sold, conveyed, assigned or transferred without the consent of the assembly. The assembly may, at its sole discretion, elect to approve the transfer, discontinue activity, or put the permit out to competitive bid.
- D. Borough Assembly Review. The borough assembly shall review current use reports of all non-motorized conveyances and tours each year prior to August 15, to analyze the impacts of these conveyances on congestion and other impacts to visitors and businesses in the business district, including evaluation of walking tour numbers for the season for the purposes of determination of capacity for the upcoming season.

5.08.050 General provisions applicable.

The provisions of Chapter 5.01 of this title shall apply to administration and enforcement of this chapter, except that the police department is given the authority to observe the conduct of holders and drivers operating under this chapter and to enforce the provisions of Sections 5.08.030, 5.08.035 and 5.08.040. Violations of other sections of this chapter discovered by the police department shall be reported by the police chief, or his designee to the borough manager, who shall order or take appropriate action.


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 6th day of October, 2011.


Thomas D. Cochran, Mayor

ATTEST:


Emily A. Deach, Borough Clerk

(SEAL)

