

Proposed by:	Civic Affairs Committee
Attorney Review:	08/10/2011
Public Safety:	08/16/2011
First Reading:	08/18/2011
Second Reading:	09/01/2011
Vote: 5 Aye	0 Nay 1 Absent

MUNICIPALITY OF SKAGWAY, ALASKA
ORDINANCE NO. 11-17

AN ORDINANCE OF THE MUNICIPALITY OF SKAGWAY, ALASKA AMENDING TITLE 9 PUBLIC PEACE, SAFETY AND WELFARE BY AMENDING CHAPTER 9.02.

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 9, Public Peace, Safety and Welfare by amending Chapter 9.02 Miscellaneous 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 9.02 Miscellaneous Provisions is hereby amended as follows.

Chapter 9.02
MISCELLANEOUS PROVISIONS

Sections:

- 9.02.010 Use of firearms.
- 9.02.020 Consumption of alcoholic beverages in public areas.
- 9.02.030 Electrical interference.
- 9.02.040 Curfew for minors.
- 9.02.050 Camping prohibited.
- 9.02.060 Penalties.

9.02.010 Use of firearms.

A. It is unlawful for any person, other than authorized persons, to brandish in a menacing way, point, or discharge any firearm within any of the following areas:

➤ Starting at Boulder Sign (mile 4.5) on the railroad tracks following the railroad track to the south end of the Railroad Dock, west in a straight line to Yakutania Point, continue from Yakutania Point to Smuggler's Cove to the intersection of the Dyea Road three hundred feet (300') west of the Dyea Road to the Klondike Highway Intersection, continuing north up the Klondike Highway to mile marker 4.0, including Yakutania Point Park, Smuggler's Cove and Pioneer Cemetery, and the beach area at the north end of Long Bay. It is unlawful to discharge any firearm within the Taiya River floodplain south of the confluence of West Creek and the Taiya River, except that shotguns may be used on the Dyea tide flats; such use must further conform to all relevant Federal, State and municipal law regarding licensing, safety and use.

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B. This section does not preclude firearms usage within any rifle range specifically designated as such by the borough assembly or on one's own property north of 23rd Avenue.

C. It is unlawful for any person, other than authorized persons, to brandish in a menacing way, point or discharge an air rifle, air pistol, pellet gun, B-B gun, paint-ball guns, or other projectile-propelling device within any of the following areas:

➤ From the railroad tracks West to the Skagway River, from 23rd Avenue South to the shoreline.

9.02.020 Consumption of alcoholic beverages in public areas.

A. Activities Prohibited.

1. It is unlawful for any person to use or consume any alcoholic beverage on streets, sidewalks, alleys, and municipal, state or federally owned property within the business district of the municipal, except those premises covered by a liquor control license issued by the state authorizing the sale and consumption of alcohol within those premises. "Business district" is defined as the area located between First Avenue and Seventh Avenue from Spring Street west to State Street.

2. The mayor is authorized to designate public places and areas in addition to those specified in subsection (A)(1) above, in which the consumption of alcoholic beverages is prohibited, and cause signs to be posted in such places and areas advising members of the public of the prohibition.

3. The mayor may by proclamation designate and set aside days where the provisions of subsection (A)(1) are not to be enforced.

B. Penalties and Enforcement.

1. Violations of this section shall be non-criminal infractions, subject to a penalty of not more than three hundred dollars (\$300.00) nor less than twenty-five dollars (\$25.00) for each separate violation.

2. The chief of police may establish a system of written citations. Citations shall show, at a minimum, the nature of the offense charged, the code section alleged to have been violated, the minimum fine (\$25.00), and the alleged violator's procedural options, as given below.

3. Persons who receive a written citation but have not previously been cited under this section shall have the option of either (a) appearing before the magistrate in Skagway, or (b) paying the minimum fine of twenty-five dollars (\$25.00) and signing the citation to indicate waiver of appearance and plea of no contest. Persons who select option (b) shall submit their payment and the signed citation to the magistrate's court in Skagway by mail or by personal delivery, within five (5) days after the date of the citation. For payments by mail, the postmark date on the envelope shall be within five (5) days after the date of the citation. Payment of the penalty shall be complete satisfaction of the citation.

~~4. It is a misdemeanor for cited person to ignore the citation and fail to implement one (1) of the two (2) options provided. Conviction of such misdemeanor shall result in a criminal penalty not to exceed five hundred dollars (\$500.00) fine or ten (10) days' imprisonment, or both.~~

C. Possession or consumption of alcoholic beverages by persons under the age of twenty-one (21) years.

1. A person under the age of twenty-one (21) years may not knowingly consume, possess or control alcoholic beverages except those beverages furnished by a parent to their own child, by a guardian to the guardian's legal ward or by a person to their legal spouse if the furnishing occurs off a licensed premises and not on public property.

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2. For the purposes of this section:

a. A person shall be considered to be consuming or to be in possession of an alcoholic beverage during the entire time that alcohol is present, in any amount, within or on that person's body or clothing or in any pack, bag, or other container, and

b. It shall be prima facie evidence that alcohol is present in or on the body of any person who exhibits those plain and easily observed or discovered outward manifestations of behavior commonly known to be produced by the consumption of alcohol.

c. Upon finding that a person under the age of 21 is in violation (first offense) of this section, a citation shall be issued requiring a mandatory court appearance. Second and subsequent violations of this section will be charged under Alaska Statute 04.16.050. Note: A violator who has been found guilty of a first violation of this section and who later commits a second violation will be charged as a 1st time offender under the Alaska Statute for the second violation. Subsequent violations will be charged under the above listed Alaska Statute.

d. The penalty for a violation of this ordinance (first offense) is a one hundred dollar (\$100.00) fine. Second and subsequent violations of this section will fall under the penalties listed under Alaska Statute 04.16.050 "Possession, Control, or Consumption by Persons Under the Age of 21".

9.02.030 Electrical interference.

A. It is unlawful for any person, firm, corporation, association or partnership to knowingly ~~wantonly~~ operate or cause to be operated within the corporate limits of the municipality between the hours of 7:00 p.m. and 12:00 midnight of the same day, any vibrating battery charger or other apparatus or equipment in such a manner as to cause electric, electrostatic or electromagnetic waves to be radiated therefrom in such manner as to result in interference with radio reception. The taking of x-ray pictures, examinations or treatments may be made at any time if the machine or apparatus used ~~therefor~~ is property equipped to avoid all unnecessary or reasonably preventable interference with radio reception and is not negligently operated.

B. It is unlawful to operate in the municipality any radio receiving equipment in such manner as to cause electrostatic or electromagnetic waves to radiate from its antenna in such manner as to result in interference with radio reception.

C. It is unlawful to erect any aerial in such a position over or above high-tension electrical wires as would tend to endanger life or property or in any way interfere with telephone poles, electrical poles or wires connecting therewith.

D. The owner or operator of any machine, apparatus or device which operates or is being operated in contravention of any of the preceding subsections shall be given forty-eight (48) hours after receipt of notice of violation to repair or discontinue the use of such machine, apparatus or device, either by discontinuance of the use of such machine during the hours of prohibited use, or by repairing ~~the same~~ it so that it complies with the foregoing subsections.

9.02.040 Curfew for minors.

A. It is unlawful for any parent or guardian having legal responsibility for the care, custody and/or support of any person under the age of eighteen (18) years to authorize, permit, or allow ~~suffer~~ such minor to violate any of the following provisions: Persons under the age of eighteen (18) years shall not be allowed to go or be abroad upon the streets, or to appear in public places in the municipality between the hours of 11:00 p.m. and 5:00 a.m. from May 15 to September 1 of any year, or between 10:00 p.m. and 5:00 a.m. for the balance of the year, with the exception of Fridays, Saturdays and legal holidays. On such days the restricted hours shall be from 12:00

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midnight to 5:00 a.m. of the following day for persons under the age of eighteen (18). A minor who goes abroad during these restricted hours must be accompanied by a parent or other adult who is legally responsible for the care, custody, and/or support of such minor, or be commissioned by ~~said~~ the guardian or parent to perform some specific errand or duty of importance.

B. The mayor or chief of police may suspend the effect of these restrictions on specific evenings for special events, as for school dances or winter carnival.

C. Minors employed after curfew hours may observe such hours as are required by their work upon being given a permit to do so by the chief of police.

9.02.050 Camping prohibited.

A. Camping without a permit in undesignated areas is prohibited on public lands within one-half a mile of the city proper, including the east hillside, ~~Lakes Trail~~ **Dewey Lakes Recreation Area**, and AB Mountain areas. Free permits for up to two (2) consecutive nights of camping in these areas may be obtained from the police department.

B. Areas prohibited to camping; Yakutania Point and Smuggler's Cove.

9.02.055 Unclaimed property.

A. When lost, stolen, abandoned or otherwise unclaimed property or money, except vehicles, comes into possession of the municipality, the municipality shall hold and store such property at the police department or with some responsible person until it is claimed.

B. Vehicles, Trailers and property too large to be stored by the police department, will be stored at a place designated by the municipality of Skagway until claimed and all just and reasonable charges for towing/hauling and impound fees are paid.

1. Towing/hauling, impound and storage fees shall be established by resolution of the Assembly.

C. If the identity of the owner of unclaimed property is known but whereabouts is not, the police department shall publish a notice of the receipt of unclaimed property in a newspaper of general circulation in the area of the state in which the last known address of that person, to be named in the notice, is located. If the identity of the person is unknown or no address is listed or the address is outside the state, the notice shall be published in a newspaper of general circulation within the borough.

1. The published notice will be entitled "Notice of Names of Persons Appearing to be Owners of Abandoned Property" and must contain the following information:

a. The names, in alphabetical order, of persons entitled to notice within the area as specified in section (C) of this section.

b. A statement that information concerning the abandoned property may be obtained by addressing an inquiry to the police department.

2. If the identity of the owner of abandoned property is unknown to the municipality, the published notice will be entitled "Notice of Abandoned Property" and must contain a statement that information concerning the abandoned property may be obtained by addressing an inquiry to the police department.

3. The municipality is not required to publish in the notice an item less than \$4500.00 in value unless the municipality considers the publication of the item to be in the public interest.

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4. This section does not apply to money payable on traveler's checks, money orders, and other written instruments presumed abandoned under AS 34.45.140.

D. If the owner or person entitled to the possession thereof fails to claim the property within three months and pay the incurred charges, the property will be considered abandoned and:

1. The municipality may sell such property to the highest bidder at public auction. Notice of such sale shall be given at least five days before the time fixed therefore by publication once in a newspaper of general circulation published in the Borough, giving the time and place of such sale and generally describing the property to be sold;

2. If the borough manager determines that the property has a value of \$4500.00 or less, the property may be disposed of by abandonment, destruction, or donation to charitable, civic, or nonprofit organizations;

3. The Borough may appropriate the property for its own use and benefit;

4. Bicycles valued at under \$100.00 unclaimed after 90 days are given away.

E. If the true owner does not appear during the time such property or money is so held, and claim the property or money, it may be delivered back to the finder, other than borough employees who found the same while performing a regular duty, if such finder has served written notice upon the municipality that he or she wishes to assert a claim to the property or the money as a finder, and if he or she has complied with the requirements of any pertinent state law now or hereafter enacted governing the duties and obligations of a finder.

F. All money so received by the municipality and unclaimed after ten days shall be deposited in the Borough treasury and held in trust on the books of account of the Borough and if not delivered to the true owner during a six month period, or to the finder, shall thereafter be transferred to the general fund.

G. After an auction is completed, the proceeds of the auction shall be delivered to the Borough treasurer for deposit to the credit of the general fund.

H. On payment of the price bid for the property sold, delivery of the property sold with a bill of sale signed by an agent of the municipality shall vest title in the purchaser.

I. In any case where there is no bid offered for the property, the property shall become the property of the Borough as compensation for expenses incurred, or if of no use or value to the Borough shall be disposed of in such manner as the borough manager directs.

J. Any property coming into possession of the municipality which is determined to be dangerous or perishable may be disposed of immediately, without notice, in such manner as may be in the public interest.

K. The provisions of section 9.02.070 shall not be deemed to apply to property or money subject to confiscation under the laws of the State of Alaska or of the United States of America, and shall apply to property or money held as evidence only when the same is unclaimed by any person and no other provisions of law are applicable concerning its disposition.

9.02.060 Penalties.

A. Violations of provisions of this chapter, except where specifically stated otherwise, are non-criminal infractions, subject to a penalty not exceeding three hundred dollars (\$300.00).

B. The fine for violations of Section 9.02.050 shall be established by resolution of the Assembly.

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 1st day of September, 2011.



Thomas D. Cochran, Mayor

ATTEST:



Emily A. Deach, Borough Clerk

(SEAL)

