

Proposed by:	Assembly
Attorney Review:	03/03/2016
First Reading:	03/17/2016
Port Commission:	03/23/2016
Second Reading:	04/07/2016
Postponed to:	04/21/2016
Vote: 4 Aye    2 Nay 0 Absent	

**MUNICIPALITY OF SKAGWAY, ALASKA**  
**ORDINANCE NO. 16-07**

**AN ORDINANCE OF THE MUNICIPALITY OF SKAGWAY, ALASKA AMENDING TITLE 3 ADMINISTRATION AND PERSONNEL, TITLE 4 REVENUE AND FINANCE, AND TITLE 12 HARBORS AND PORTS.**

**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 SMC 3.02.110 Skagway Port Department, SMC 4.04.030 Purchases and Sales, and 12.01 Skagway Port Commission. The Skagway Municipal Code is hereby amended (~~strike through~~) indicates text to be deleted from, and **bold** indicates text added to the current code as follows:

**Section 3. Amendment.** SMC 3.02.110 Skagway Port Department is hereby amended as follows:

- 3.02.110 Skagway Port Department.
  - A. Responsibilities. The port department is responsible for the development, management, operation and maintenance of all of the municipality’s port facilities including the Small Boat Harbor and the municipality’s side of the ferry/barge facility. The port department operates through ~~several divisions~~:
    - 1. port development;
    - 2. small boat harbor;
    - 3. ferry/barge facility.
  - B. Department head and authority. The department head of **the** port department shall be the port director. The port director shall be the **borough** manager until such time as the manager and assembly determines to fill the position. The harbormaster shall be responsible for the management and operation and maintenance of the Small Boat Harbor and the municipality’s side of the ferry/barge facility.
  - C. Powers and duties. The Port Director and the Harbormaster shall have all powers and duties as defined in Skagway Municipal Code Title 12 and will comply with Municipality of Skagway codes and policies regarding finance and personnel.
    - 1. The director shall be responsible for oversight of the port

- development.
2. The director, or such persons as the director may designate, shall ~~serve as staff support to~~ assist the port commission, as staff time and resources may allow.
  3. The director, with advisory input from the ~~and~~ port commission, shall be responsible for the review and update of the Port Development Master Plan in accordance with SMC 12.01, Skagway Port Commission.
  4. The harbormaster shall have supervision and management of the administration of the small boat harbor and the municipality's side of the ferry/barge facility in accordance with SMC 12.04, Harbormaster.
  5. The harbormaster shall select personnel to serve as staff, subject to confirmation by the borough manager.
  6. The harbormaster shall implement the policies, programs and plans of operation as adopted by the assembly.
  7. The harbormaster ~~shall~~ or such persons as the harbor master may designate, shall assist the ~~serve as staff support to the~~ harbors advisory board in accordance with SMC 12.06 Harbors Advisory Board.
  8. Other related duties as assigned by the manager.

**Section 4. Amendment.** SMC 4.04.030 Purchases and Sales is hereby amended as follows:

4.04.030 Purchases and sales.

- A. The borough manager shall contract for purchases of supplies, services, equipment and materials for use by the municipal government for transactions of five thousand dollars (\$5,000.00) or less. For transactions involving larger sums but less than twenty-five thousand dollars (\$25,000.00), the authorization of the assembly's finance committee chairman also shall be required. For transactions exceeding twenty-five thousand dollars (\$25,000.00) in value, the assembly's authorization shall be required.
- B. The borough manager may transfer supplies and equipment between offices and departments. The manager may also sell surplus or obsolete supplies or equipment, subject to such additional terms and conditions as the assembly may by resolution prescribe. Sale of any item of borough-owned personal property valued at more than five thousand dollars (\$5,000.00) shall require assembly approval, and shall be done by competitive bidding using a pre-established minimum acceptable bid.
- C. Sales, leases and other dispositions of borough-owned real property or interests therein shall be in accordance with the applicable provisions of Title 16 of this code.
- D. An entire public utility and appurtenant franchises belonging to the municipality may be sold or leased only by authority of an ordinance

adopted by the assembly and ratified by an affirmative vote of a majority of the qualified voters voting at a regular or special election.

- E. Expenditures by the Port Commission from the Port Commission budget shall be in accordance with SMC 4.04.030(A) requiring authorization by the borough manager, the finance chairman or the assembly as specified in SMC 4.04.030(A).**

**Section 5. Amendment.** SMC 12.01 Skagway Port Commission is hereby amended as follows:

Chapter 12.01  
SKAGWAY PORT COMMISSION

Sections:

- 12.01.010 Establishment.
- 12.01.020 Membership.
- 12.01.030 Qualifications.
- 12.01.040 Appointment.
- 12.01.050 Terms.
- 12.01.060 Vacancies.
- 12.01.070 Officers.
- 12.01.080 Meetings.
- 12.01.090 Subject to Alaska Public Records and Open Meetings Laws.
- 12.01.100 Rules and procedures.
- 12.01.110 Function and duties.

**12.01.120 Limitations on the Powers of the Port Commission and Individual Commissioners.**

12.01.010 Establishment.

There is established a Skagway Port Commission (the Port Commission) which shall advise the assembly and the borough manager on matters relating to planning, maintaining, expanding, developing, financing, administering or operating **the Port of Skagway which consists of** local and regional transportation or transportation-related systems, facilities and services, including marine, road and highway, rail, air or other transportation systems, facilities and services. **The assembly retains complete authority over the Port of Skagway and the assembly acts and serves as the Port Authority for the Port of Skagway, unless and until a new port governance structure is adopted by ordinance.**

12.01.020 Membership.

The Port Commission shall be comprised of five (5) Commissioners.

12.01.030 Qualifications.

A Commissioner shall be a registered voter of the municipality.

12.01.040 Appointment.

A. Commissioners

1. The mayor shall appoint Commissioners from among persons who either apply or are recommended for the positions, subject to confirmation of the assembly by majority vote. A motion shall not be required to appoint a Commissioner.
2. Commissioners serve at the pleasure of the borough assembly and without compensation. The Mayor may remove ~~recommend the removal of a commissioner,~~ subject to confirmation of the assembly by majority vote. A motion shall not be required to remove a commissioner. ~~but the which removal of a commissioner shall only occur by vote of the assembly in accordance with SMC 3.01.040(C).~~

B. Liaisons

1. Yukon Territory Liaison. The mayor shall appoint one (1) representative of the Yukon Territory, nominated by the Yukon Territory Government, to serve as a liaison between the Yukon Territory and the Commission. The Yukon Territory Liaison shall serve a three (3) year term. The Yukon Territory Liaison may serve more than one (1) term. The Yukon Territory Liaison does count towards a quorum.
2. Assembly Liaison. The mayor shall appoint annually one (1) assembly member to serve as liaison between the assembly and the Commission. The Assembly Liaison may serve more than one (1) term.
3. ~~The Assembly Liaison representatives may attend all meetings of the Commission. The Assembly Liaison representatives shall have the privilege of the floor, but shall not have the right to vote on matters before the Commission. The Assembly Liaison has the right to be present in all executive sessions.~~

12.01.050 Terms.

- A. Commissioners serve three (3) year terms; however, a Commissioner serves until a successor takes office. The term of office begins in October.
- B. The terms shall be staggered so that Commissioners are appointed each year. Terms shall be first established by randomly drawing two (2) for one (1) year terms, two (2) for two (2) year terms and one (1) for a three (3) year term.
- C. A Commissioner may serve no more than two (2) consecutive three (3) year terms. However, after not less than one (1) year following the end of a Commissioner's second consecutive term, that former Commissioner may be appointed to serve additional terms, subject to this two (2) consecutive term limit.
- D. A Commissioner appointed to fill a vacancy shall serve the unexpired portion of the term.

- 12.01.060 Vacancies.
- A. A vacancy on the Port Commission shall be declared and filled as above provided when a Commissioner
    1. Resigns and the mayor accepts that resignation;
    2. No longer meets the qualifications for being a Commissioner;
    3. Is physically or mentally unable to attend Port Commission meetings for a period of more than ninety (90) days unless excused by vote of the Port Commission;
    4. Misses three (3) consecutive regular Commission meetings and is not excused by the Chair; or
    5. Is convicted of a felony.
    6. Any commission member may be removed **in accordance with 12.01.040(A)(2)** ~~with written notice by the mayor after a majority vote of the assembly~~ at any time regardless of whether that person's term on the board has expired.
  - B. The secretary of the Port Commission shall keep attendance records and notify the mayor when vacancies occur.
- 12.01.070 Officers.
- A. The Port Commission shall elect annually a chair, vice-chair and secretary at its first meeting following the mayor's appointment and the assembly's confirmation of Commissioners.
  - B. The term of office for the chair, vice-chair and secretary shall be one (1) year; however, officers may serve more than one term.
  - C. The chair shall preside over the Port Commission and shall have the right to vote.
  - D. The vice-chair shall perform the duties of the chair in the absence or disability of the chair.
  - E. The secretary shall be responsible for taking minutes and providing those minutes to the Borough Clerk in a timely manner.**
- 12.01.080 Meetings.
- A. The Port Commission shall meet at least quarterly at a regularly established time and location determined by the Port Commission. The chair or at least three (3) Commissioners may call additional meetings.
  - B. The Port Commission will provide at least five (5) days of public notice of all its meetings, except that it may call an emergency meeting upon not less than twenty four (24) hours prior oral or written notice to all Commissioners. Public notice shall go through the borough clerk's office.
  - C. The Port Commission shall provide an opportunity for the public to be heard at all meetings.
  - D. A majority of all Commissioners constitutes a quorum. A Commissioner disqualified by law from voting on a question may be considered present for purposes of constituting a quorum. In the absence of a quorum any Commissioner may recess or adjourn the meeting to a later date.

- E. Actions of the Port Commission are adopted by a majority of the total membership of the Port Commission. Each Commissioner shall vote on every question, unless required to abstain from voting on a question by law. The final vote of each Commissioner on each motion shall be recorded “yes” or “no”, except that if the vote is unanimous it may be recorded “unanimous”.
- F. The Assembly Liaison, Port Director and Borough Manager have the right to be present in all executive sessions.**
- FG.** The Port Commission shall maintain **minutes** a ~~journal~~ of its official proceedings. The **minutes** ~~journal~~ shall be filed with the borough clerk and shall be retained as a public record.

12.01.090 Subject to Alaska Public Records and Open Meetings Laws  
The Port Commission is subject to AS 40.25.110—40.25.220 and AS 44.62.310—44.62.312, as amended.

12.01.100 Rules and procedures.  
The Port Commission may adopt such rules and procedures as may be necessary to carry out its duties subject to approval ~~thereof~~ by the assembly. Roberts Rules of Order will govern unless other procedures are approved **by the assembly**.

- 12.01.110 Function and duties.
- A. The Port Commission shall have the following functions and duties:
1. Recommend, **in writing**, to the borough manager and the assembly, as appropriate, policies, plans ~~and~~ **or** actions to promote and support commercial and industrial development throughout the **Port of Skagway area** ~~by meeting local and regional needs for transportation systems, facilities and services.~~
  2. As ~~often as~~ the Commission deems necessary, but not less than annually during January, recommend **in writing** to the borough manager and the assembly allocations of borough resources through the borough’s annual budget process for studying, planning, developing, administering, financing and operating **the Port of Skagway**. ~~local and regional transportation systems, facilities and services.~~
  3. Solicit input from individuals, groups, agencies, businesses and industries on matters relating to local and regional transportation systems, facilities and services.
  4. Develop, **upon concurrence or request by the Assembly**, or review plans, studies, programs, policies, ordinances, state and federal legislation, regulations, grant applications, and other documents concerning development, financing, administration and operation of local and regional transportation systems, facilities and services; and advise the borough manager and the assembly, as appropriate.

- ~~5. Prepare or review proposals to acquire, sell, exchange or develop interests in real or personal property that may relate to development and operation of local and regional transportation systems, facilities and services; and make recommendations regarding such proposals to the borough manager, planning commission, or the assembly, as appropriate.~~
65. Within sixty (60) days following the end of each fiscal year, submit a written report to the assembly outlining the Port Commission's activities and recommendations during the preceding fiscal year, and outlining the Port Commission's recommendations for future assembly and borough manager action.
76. Perform such other functions and duties as the assembly may require.

**12.01.120 Limitations on the Powers of the Port Commission and Individual Commissioners.**

**In accordance with its function as solely an advisory commission, the Commission has no authority to:**

- 1. Act on behalf of the Municipality of Skagway;**
- 2. Enter any oral or written agreements or contracts of any kind on behalf of the Municipality of Skagway;**
- 3. Make any promises, whether oral or in writing, to any person, partnership, joint venture, government agency, or private entity.**

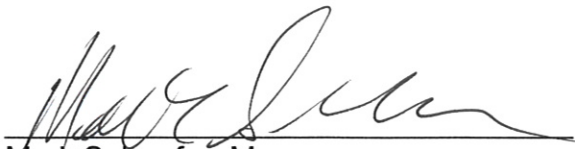
**In accordance with their service on the Commission in solely an advisory role, individual Commissioners:**

- 1. Do not have any actual or apparent authority to represent the Municipality in any discussions with private persons, partnerships, joint ventures, governmental agencies, or private entities, unless specifically authorized in writing by the Assembly Mayor as directed by the Assembly;**
- 2. Do not have any actual or apparent authority to enter into any oral or written agreements with any person, partnership, joint venture, governmental agency, or private entity on behalf of the Municipality;**
- 3. Do not have any actual or apparent authority to make any promises to any person, partnership, joint venture, governmental agency, or private entity on behalf of the Municipality.**


**Section 6. Severability.** If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

**Section 7. Effective Date.** This ordinance shall become effective immediately upon adoption.

**PASSED AND APPROVED** by a duly constituted quorum of the Borough Assembly of the Municipality of Skagway this 21<sup>st</sup> day of April, 2016.

  
Mark Schaefer, Mayor

ATTEST:

  
Emily A. Deach, Borough Clerk

(SEAL)

