

Proposed by:	Administration
First Reading:	07/17/2014
Second Reading:	08/07/2014
Vote: 6 Aye	0 Nay 0 Absent

**MUNICIPALITY OF SKAGWAY, ALASKA  
ORDINANCE NO. 14-17**

**AN ORDINANCE OF THE MUNICIPALITY OF SKAGWAY, ALASKA AMENDING TITLE 10 VEHICLES AND TRAFFIC TO PROVIDE THAT VIOLATIONS OF THIS TITLE ARE SUBJECT TO CIVIL FINES.**

**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 Chapter 10.02 Traffic Code and Chapter 10.10 Penalties to provide that violations of Title 10 are subject to civil fines.

**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 10.02 Traffic Code is hereby amended as follows:

Sections:

- 10.02.010 State provisions adopted.
- 10.02.020 Authority of police and fire department officials.
- 10.02.030 Miscellaneous operating rules.
- 10.02.035 Impeding traffic in the historic district prohibited.
- 10.02.040 Bicycles.
- 10.02.045 All terrain vehicles.
- 10.02.050 Snowmobiles.
- 10.02.055 Golf carts and golf cart type vehicles.
- 10.02.060 Pedestrians.
- 10.02.070 Parking restrictions.
- 10.02.080 Notice of violation of parking restrictions.
- ~~10.02.090 Administrative appeal.~~

10.02.045 All ~~T~~terrain ~~v~~ehicles  
 G. ~~Penalties. Any person who violates this chapter is subject to a fine of \$100.00 for the first offense, and \$200.00 for each individual offense after the first offense.~~

~~10.02.090 Administrative appeal.~~  
 A. ~~Right to Appeal and Time for Appeal. The registered owner of a vehicle which has been issued a notice of violation of parking restrictions may appeal the notice of violation by filing an appeal with the borough manager within ten (10) days of the date of the notice of violation. The manager shall prepare appeal forms which appellant may use.~~  
 B. ~~Hearing Officer. The borough manager or such person(s) as the manager may designate shall serve as hearing officer for notice of violation appeals and shall have authority to decide such appeals.~~

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- ~~C. Contents of Appeal. An appeal must be in writing and contain the following information:~~
- ~~1. Name and mailing address of the appellant;~~
  - ~~2. Number or other sufficient identification of the notice of violation;~~
  - ~~3. Description of the vehicle;~~
  - ~~4. Statement of the reasons for the appeal;~~
  - ~~5. Any facts, documents, photographs, witness statements, or other evidence supporting the appeal; and~~
  - ~~6. Statement as to whether the appellant requests a hearing before a hearing officer, or whether the appeal can be decided without a hearing. If the appellant waives hearing, the hearing officer may decide the appeal based on the written statements of the appellant, the issuing officers and any witnesses, and the hearing officer's own observations.~~
- ~~D. Administrative Hearing Procedures.~~
- ~~1. Date of Hearing. Unless otherwise agreed by the appellant and the hearing officer, a hearing requested under this section shall be held no later than fifteen (15) days from the date the written notice of appeal is filed with the borough manager.~~
  - ~~2. Procedure. The hearing shall be conducted informally and may be governed by such rules as the hearing officer may choose to establish, except that:~~
    - ~~a. Parties may appear in person or through counsel;~~
    - ~~b. Parties may present witnesses and evidence on their own behalf and witnesses may be cross-examined;~~
    - ~~c. The hearing is not governed by the formal rules of evidence. The hearing officer may consider evidence that the officer reasonably deems to be both relevant and material to the contested issues;~~
    - ~~d. All hearings shall be open to the public;~~
    - ~~e. The hearing shall be memorialized by electronic recording or stenographic record;~~
    - ~~f. Failure of the appellant to appear at a hearing requested by the appellant shall waive all right to a hearing and shall render the amount of the fine due and owing.~~
  - ~~3. Scope of Review. The hearing officer's decision shall be based on the law and facts applicable to the case. The hearing officer may exercise independent judgment and reasonable discretion, applied in a consistent manner, in deciding appeals and may affirm, modify, or dismiss the notice of violation.~~
  - ~~4. Decision. No later than ten (10) days following the hearing, the hearing officer shall issue a written decision setting out the hearing officer's findings and conclusions so as to provide a clear understanding of the reasons for the decision entered. The decision should also include the following statement: "This is the final decision of the municipality and a party disputing this decision has thirty (30) days from the date this decision was mailed or distributed to file an appeal with the Superior Court for the State of Alaska, First Judicial District at Juneau, Alaska, in accordance with the Alaska Rules of Appellate Procedure." The decision shall be mailed or otherwise distributed to all parties to the appeal.~~

5. ~~Judicial Appeal. The decision of the hearing officer may be appealed to the Superior Court for the State of Alaska, First Judicial District at Juneau, Alaska, in accordance with the Alaska Rules of Appellate Procedure.~~

**Section 4. 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 10.10 Penalties is hereby amended as follows:

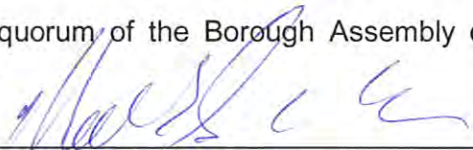
10.10.020 Violation of Title 10 provisions--Penalty.

**For violations of Title 10 not adopted from state law, refer to chapter 1.20 General Penalties. Violations of this title are subject to civil fines established by resolution.** ~~Violation of a provision of this title not adopted from state law shall be deemed an infraction, and shall be punishable by a fine not to exceed fifty dollars (\$50.00), unless a specific penalty is stated immediately following the statement herein of the legal duty which has been violated.~~

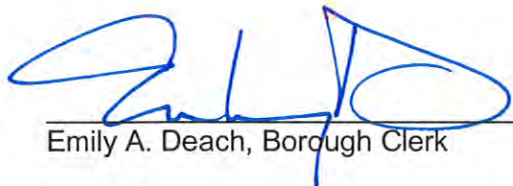
**Section 5. Severability.** If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

**Section 6. 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 7<sup>th</sup> day of August, 2014.

  
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Mark Schaefer, Mayor

ATTEST:

  
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Emily A. Deach, Borough Clerk

(SEAL)

