

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. 14-16**

AN ORDINANCE OF THE MUNICIPALITY OF SKAGWAY, ALASKA AMENDING TITLE 9 PUBLIC PEACE, SAFETY AND WELFARE 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 9.02 Miscellaneous Provisions and Chapter 9.03 Noise Control to provide that violations of these chapters 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 9.02 Miscellaneous Provisions is hereby amended as follows:

- 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 municipality, 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)~~ **civil fine established by resolution** 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~~

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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.

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.

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~~ **penalty**. 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".

9.02.060 Penalties.

A. ~~For violations of provisions of this chapter~~ **SMC chapter 9.02 refer to chapter 1.20 General Penalties**, except where specifically stated otherwise **in this section**, ~~are non-criminal infractions, subject to a penalty not exceeding three hundred dollars (\$300.00).~~ **Violations of this chapter are subject to civil fines established by resolution.**

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

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 9.03 Noise Control is hereby amended as follows:

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Sections:

- 9.03.010 Definitions.
- 9.03.020 Noise Control.
- 9.03.030 Noise Permits.
- 9.03.040 Penalties.**

9.03.030 Noise Permits.

- A. The police chief or his designee shall have the authority consistent with this section to grant permits that may be requested pursuant to sections 9.03.020(B)(2) pertaining to construction, 9.03.020(B)(5) pertaining to public events or 9.03.020(B)(7) pertaining to explosives.
- B. Any person seeking a noise permit shall file with the police department an application containing information that demonstrates that bringing the source of sound or activity for which the permit or variance is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, the community or other persons. Any person seeking a noise permit shall file application with the police department at least 20 days prior to the commencement of the noise for which the permit is requested. The police chief or his designee shall have authority to waive, consistent with administratively established criteria, the 20-day time requirement in order to expedite issuance of permits. For short-term permits having duration of 21 consecutive calendar days or less unless the police chief or his designee determines that there is a substantial potential for impact on the public may grant the permit. For long-term permits of longer than 21 consecutive calendar days or where the potential for impact on the public may exist, applications will be forwarded to the municipality to be heard by the assembly at the next scheduled assembly meeting.
- C. In determining whether to grant or deny the application for a permit, the chief of police or his designee or the assembly shall balance the hardship on the applicant, the community and other persons not granting the permit against the adverse impact on health, safety and welfare of persons affected, the adverse impact on property affected and any other adverse impacts of granting the permit. Applicants may be required to either measure or allow the police department to measure the sound level from any source in accordance with the methods and procedures and at such locations and times as the police department or municipality may reasonably prescribe, to furnish reports of the results of such measurements to the police department and to require the measurements to be conducted in the presence of the police department enforcement officers. Applicants for a permit and persons contesting a permit may be required to submit any other information the municipality may reasonably require. In granting or denying an application, the municipality shall keep on public file a copy of the decision and the reasons for denying or granting the permit. No permit shall be granted for any source of sound or activity that violates or would violate any provision of federal or state law or any provision of any other chapter of this title or this code.
- D. Permits shall be granted by notice to the applicant containing all necessary conditions, including as part of any permit a time limit on the permitted activity. The permit shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of a permit shall terminate the permit and subject the person holding it to those provisions of this title regulating the source of sound for which the permit was granted.

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- E. Application for extension of time limits specified in permits or for modification of other substantial conditions shall be treated like applications for initial permits under subsection C of this section.
- F. No permit shall be granted to this section for an initial period longer than one year.
- G. ~~Penalties for violations to this chapter shall be established by resolution of the assembly, and shall become a part of this section by incorporation by reference.~~

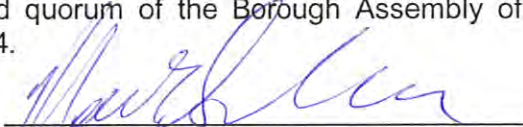
9.03.040 Penalties.

- A. For violations of SMC chapter 9.03 refer to chapter 1.20 General Penalties. Violations of this chapter are subject to civil fines established by resolution.**

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 7th day of August, 2014.



Mark Schaefer, Mayor

ATTEST:



Emily A. Deach, Borough Clerk

(SEAL)

