

Proposed by:	Planning & Zoning Commission
Attorney Review:	03/24/2017
First Reading:	04/06/2017
Second Reading:	04/20/2017
Vote:	6 Aye 0 Nay 0 Absent

## MUNICIPALITY OF SKAGWAY, ALASKA ORDINANCE NO. 17-05

AN ORDINANCE OF THE MUNICIPALITY OF SKAGWAY, ALASKA AMENDING SMC CHAPTER 19.02.065 DEFINITIONS, SMC CHAPTER 19.04.020 GENERAL PROVISIONS, AND SMC 19.06.025 RLD – RESIDENTIAL-LOW DENSITY ZONE, OF TITLE 19 PLANNING AND ZONING, TO ADDRESS DEFINITIONS REGARDING ANIMALS AND SETBACKS, AND TO PROVIDE FOR GENERAL REGULATIONS REGARDING SETBACKS.

**WHEREAS**, the Planning and Zoning Commission held a public hearing on the amendments to the zoning regulations at its meeting of February 9, 2017, per SMC 19.04.080(B)(3);

**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 chapter 19.02.065 Definitions to provide definitions pertaining to animals and setbacks; to amend SMC chapter 19.04.020 General Provisions to provide general regulations for setbacks; and to amend SMC chapter 19.06.025 RLD-Residential-Low Density Zone to remove redundant definitions. 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 chapter 19.02.065 Definitions is hereby amended as follows:

19.02.065 Definitions.

A. General Interpretation.

1. The word "lot" includes the word "plot" or "parcel."
2. The word "used" or "occupied," as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be used or occupied."

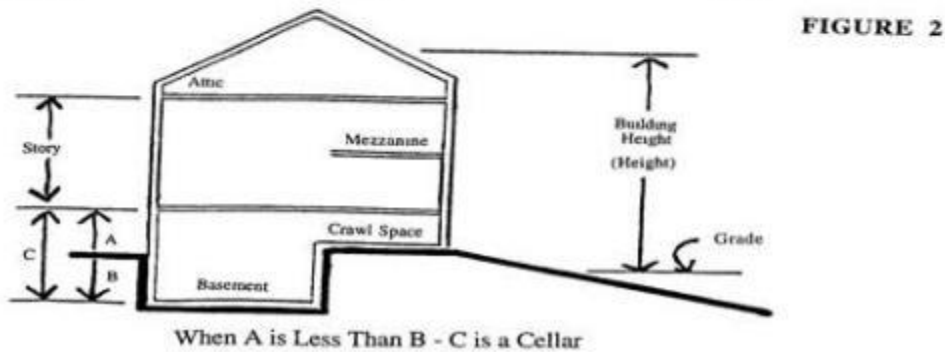
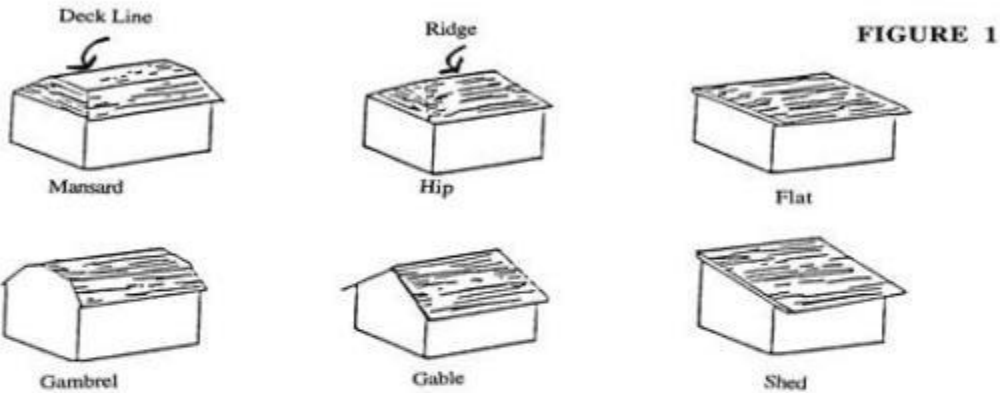
B. Specific Definitions.

1. "Accessory building" means a detached building, the use of which is appropriate, subordinate and customarily incidental to that of the main building or to the main use of the land, and which is located on the same lot as the main building or use. An accessory building shall be considered to be a part of the main building when joined to the main building by a common

- wall, or when any accessory building and the main building are connected by a breezeway.
2. "Accessory housing structure" means a detached single-family dwelling with a valid certificate of occupancy, the use of which is appropriate, subordinate and customarily incidental to that of the main building, which must be a residence which has been in place for a minimum of three (3) years. Accessory housing structures for this definition will not include mobile homes or recreation vehicles.
    - a. Exception: An accessory housing structure may be permitted without the main building having been in place for three (3) years only when the accessory housing structure houses immediate family members of the occupants of the main building. The exception in this section automatically terminates with the transfer or sale of the property or building to a nonimmediate family member. "Immediate family member" is defined as a parent, child, spouse or sibling of the owner of the accessory housing structure.
  3. "Accessory use" means a use customarily incidental and subordinate to the principal use of the land, building or structure, and located on the same lot or parcel of land.
  4. "Agricultural building" means a building used to shelter farm implements, hay, grain, poultry, livestock or other farm produce, in which there is no human habitation and which is not used by the public.
  5. "Alley" means a public right-of-way designed and intended to provide only a secondary means of access to any property abutting thereon.
  6. "Alteration" means any change, addition or modification in the construction, location or use classification.
  7. Apartment House. See "Dwelling, multiple."
  8. Area, Building. "Building area" means the total of areas, taken on a horizontal plane at the main grade level of the principal building, and all accessory buildings, exclusive of steps.
  9. "Automobile wrecking" means the dismantling of used motor vehicles or trailers, or the storage or sale of parts from dismantled or partially dismantled, obsolete or wrecked vehicles.
  10. "Bed and breakfast establishment" means a dwelling in which commercial lodging is provided by the owner or operator to more than three (3) persons. The term includes boarding, rooming or tourist houses.
  11. "Boardinghouse" means a building other than a hotel where lodging, with or without meals, is provided for compensation for three (3) or more persons on other than a day-to-day basis, and which is not open to transient guests.
  12. Building Height. Building height shall be calculated as the average height of three (3) sides of the building measured from the finished grade to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the average height of the highest gable of a pitched or hipped roof as illustrated in Figures 1 and 2. *Roof structures for the housing of equipment required to operate and maintain the building, or other necessary*

*structures such as stairwells, chimneys and flagpoles, may be erected above the prescribed height limit, but no roof structure shall be erected for the purpose of providing additional floor space above the prescribed height limit.*

**ROOF TYPES**



13. "Building official" means the officer charged with the administration and enforcement of the ordinance codified in this title. The borough manager shall act as building official until the borough assembly otherwise designates.
14. Building, Principal or Main. "Principal or main building" means the building in which is conducted the principal or main use of the lot on which the building is situated.
15. "Bunkhouse" means a building used as living quarters for people such as tourism workers or construction laborers where shower and sanitary facilities are shared by several rooms. A bunkhouse must have a configuration including:
  - a. A common-use bathroom with multiple sinks, multiple toilets, and/or multiple showers within one (1) bathroom enclosure; or
  - b. A common-use kitchen with multiple stoves, multiple refrigerators and/or multiple sinks within one (1) kitchen enclosure.

In addition, sleeping rooms must be open barracks-type or semi-private rooms with sleeping accommodations for two (2) or more unrelated occupants.

Bunkhouses are not excused from complying with Title 15 and the international codes adopted therein.

16. "Campground" means a lot or parcel of land occupied or intended for temporary occupancy by recreational vehicles or tents for travel, recreational or vacation usage for short periods of stay and containing a potable water source and public toilet facilities.
17. "Community garden" means a premises that is used for crop cultivation by individuals or collectively, and may be divided into multiple plots. Community gardens are a conditional use in the residential-conservation zone, residential low density zone, residential-general zone, business-general zone, business-Skagway historical zone, industrial-light zone, industrial zone, and waterfront zone subject to the following regulations:
  - a. On-site sales are permitted as follows:
    - (i) On-site sales are permitted only in business and industrial zones, except that on-site sales may be permitted in residential zones one (1) day per week. These sale days shall be selected by the garden manager and reported to the borough manager; such sale dates shall not be amended for that calendar year.
    - (ii) Where on-site sales are permitted, sales are subject to the following:
      - (A) On-site sales are limited to the sale of unprocessed, non-value-added products grown on site; and
      - (B) All sales must be conducted in compliance with laws regulating on-site sales of products grown in the community garden and in compliance with all applicable laws.
  - b. The site shall be designated and maintained to effectively handle all drainage on site.
  - c. A minimum four foot (4') wide, clearly marked entrance path shall be provided from the public right-of-way to the garden.
  - d. A permanent sign, including, but not limited to, the name and contact information of the party responsible for the garden, shall be posted at the primary entry path adjacent to the public right-of-way. The sign shall comply with the requirements of Section 19.08.010(D). The sign may be taken down after the garden's operational season, but must be replaced at the start of the next operational season.
  - e. Refuse storage areas shall be provided and screened to enclose all refuse generated from the garden. The garden property shall comply with the provisions in Chapter 8.04.

- f. Storage areas for tools, fertilizers, equipment, and other materials shall be enclosed and located as close as practicable to the center of the property.
- g. Best practice standards shall be used for the following garden operations:
  - (i) Community Garden Management.
    - (A) There shall be a garden manager who is responsible for the operation of the community garden, the care of the garden and garden users' adherence to garden rules and municipal code.
      - (1) The garden manager shall cause to be posted a sign as specified in subsection (B)(17)(d) of this section.
      - (2) Community gardens on public lands shall provide, in addition to a permanent sign per subsection (B)(17)(d) of this section, the borough manager with the name and contact information of the party responsible for the garden as well as an official copy of the garden's policies.
      - (3) The garden manager is responsible for obtaining liability waivers from participants in the community garden when operating on municipal lands and for providing copies of those waivers to the municipality no later than close of business on each Friday the garden is in operation.
  - (ii) Composting.
    - (A) Composting may be performed on site.
    - (B) Composting materials shall only be those materials:
      - (1) Generated on site; or
      - (2) Contributed by active members of the community garden, precluding meat, milk, oils, and greasy foods.
    - (C) Composting areas shall be located as close as practicable to the center of the property.
  - (iii) Water Use.
    - (A) Irrigation water rates shall apply to community gardens.
    - (B) Community gardens are recommended to implement the following water conservation techniques:
      - (1) Mulch shall be applied to exposed soil in planting areas;
      - (2) Soil amendments shall include water retaining matter;

- (3) Water shall be applied only to the base of plants; and
      - (4) All hoses shall be equipped with a trigger nozzle.
    - (iv) Nuisances.
      - (A) Garden users shall comply with the provisions in Chapter 8.04, Nuisances.
      - (B) Garden users shall comply with the provisions in Title 6.
    - (v) Community gardens shall comply with the Skagway 2020 Comprehensive Plan and Planning and Zoning Regulations, as well as other officially adopted plans.
  - h. The garden manager shall establish hours of operation for the community garden and shall cause the operational hours to be posted on or adjacent to the permanent sign at the primary entry path.
18. "Congregate residence" means any building or portion thereof that contains facilities for living, sleeping and sanitation, as required by the IBC and IRC if applicable, and may include facilities for eating and cooking, for occupancy by other than a family. A congregate residence may be a shelter, convent, monastery, dormitory, fraternity or sorority house, but does not include jails, hospitals, nursing homes, hotels or lodging houses.
19. "Coverage" means that percentage of the total lot area covered by the building area.
- 20. "Domestic animal" means every kind of animal that is domesticated (not wildlife), including, without limitation, livestock of all kinds, dogs, cats, monkeys, birds and reptiles that have through selective breeding, become notably different from their wild ancestors.**
- ~~201.~~ "Dwelling" means a building or any portion thereof designed or used exclusively for residential occupancy.
- ~~242.~~ Dwelling, Multiple-Family. "Multiple-family dwelling" means any building containing three (3) or more dwelling units.
- ~~223.~~ Dwelling, One (1) Family. "One (1) family dwelling" means any detached building containing only one (1) dwelling unit.
- ~~234.~~ Dwelling, Two (2) Family. "Two (2) family dwelling" means any building containing only two (2) dwelling units.
- ~~245.~~ "Dwelling unit" means any building or portion thereof that contains living facilities, including provisions for sleeping, eating, cooking and sanitation, as required by the IBC, for not more than one (1) family, or a congregate residence for ten (10) or less persons.
- ~~256.~~ "Family" means an individual or two (2) or more persons related by blood or marriage or a group of not more than five (5) persons (excluding servants) who need not be related by blood or marriage living together in a dwelling unit.

- 267.** "Farmers' market" means an outdoor or indoor market open to the public, operated by a governmental agency, a nonprofit corporation, or one (1) or more producers, at which (a) the products sold are farm products or value-added farm products and (b) the vendors regularly participating during the market's hours of operation are producers, or family members or employees of producers.
- a. Definitions.
- (i) "Farm products" means unprocessed fruits, vegetables, mushrooms, herbs, nuts, shells, eggs, honey or other bee products, and flowers produced from a farm or garden.
  - (ii) "Producer" means a person or entity that raises or produces farm products on land that the person or entity gardens or farms and owns, rents, or leases.
  - (iii) "Vendor" means someone who promotes or exchanges goods for money.
  - (iv) "Value-added farm product" means any product processed by a producer from a farm product, such as baked goods, jams, and jellies.
- b. Permitted Use. Farmers' markets are an accessory use in the following zoning districts: residential-conservation, residential low density, residential-general, business-general, business-historic, industrial-light, industrial, and waterfront subject to the following regulations:
- (i) All farmers' markets and their vendors comply with all federal, state and local laws relating to food, operation, safety, use and enjoyment of the market premises as well as any and all regulations pertaining specifically to the business-historic zoning district.
  - (ii) All farmers' markets and their vendors receive all required operating and health permits and these permits (or copies) shall be in the possession of the farmers' market operator or the vendor, as applicable, on the site of the farmers' market during all hours of operation.
  - (iii) All farmers' markets have a representative of the operator, a market manager, authorized to direct the operations of all vendors participating in the market on the site of the market during all hours of operation.
  - (iv) All farmers' markets have an established set of operating rules addressing the governance structure of the farmers' market, hours of operation, maintenance and security requirements and responsibilities; and appointment of a market manager.
  - (v) The farmers' market as a whole or each vendor is responsible for all aspects of sales and cash flow. The farmers' market or individual vendors must obtain a permit to collect borough and city sales taxes, if applicable, and must notify the borough

manager and provide vital information such as place and time of the event.

- (vi) All farmers' markets provide for composting, recycling, and waste removal in accordance with all applicable borough codes.

- 278. Fence, Height Of. "Height of fence" means the vertical distance between the ground directly under the fence and the highest point of the fence.
- 289. "Floor area" means the total of each floor of a building within the surrounding outer walls but excluding vent shafts and courts.
- 2930. "Frontage" means all the property fronting on one (1) side of a street between intersecting streets.
- 301. Garage, Private. "Private garage" means an accessory building or any portion of a main building used in connection with residential purposes for the storage of passenger motor vehicles.
- 342. Garage, Public. "Public garage" means any garage other than a private garage, available to the public, operated for gain, and which is used for storage, repair, rental, greasing, washing, servicing, or adjusting or equipping of automobiles or other vehicles.
- 323. "Grade (ground level)" means the average level of the finished ground at the center of all walls to a building. In case walls are parallel to and within five feet (5') of a public sidewalk, the ground level shall be measured at the sidewalk.
- 334. "Guest room" means any room in a hotel, dormitory, boardinghouse or lodging house used and maintained to provide sleeping accommodations.
- 345. "Home occupation" means a residential use conducted in a dwelling unit; provided, that:
  - a. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for the residential purposes by its occupants, have no employees, and have not more than fifty percent (50%) of the floor area of the dwelling used in the conduct of the home occupation;
  - b. There shall be no change in the outside appearance of the building or premises, nor shall there be any visible evidence of the conduct of such home occupation other than one (1) sign not exceeding three (3) square feet in area, nonilluminated, and mounted flat against the principal building;
  - c. No traffic or parking needs shall be generated by such home occupation in greater volume than that which would normally be found in the neighborhood and shall be accommodated off street and on the premises;
  - d. No equipment or process shall be used which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the site of the home occupation;
  - e. Day care of five (5) children or less shall be considered a home occupation.



356. "Hotel" means any building or group of buildings in which there are guest rooms used, designed or intended to be used for the purpose of offering to the general public food or lodging, or both, on a day-to-day basis.
367. "Junk yard" means any space one hundred (100) square feet or more of any lot or parcel of land used for the storage, keeping or abandonment of junk or waste material including scrap metals or other scrap materials or for the dismantling, demolition or abandonment of automobiles, other vehicles, machinery or any parts thereof.
378. "Kennel" means a place where domestic animals or birds are kept or bred in numbers greater than six (6) per species and may include fenced areas, yards or structures. This definition shall not apply to areas used for the keeping of animals by veterinarians or the municipality.
- 39. "Livestock" means every kind of domestic animal that is four (4) footed and ordinarily larger than a dog; and includes, at least, cattle, horses, swine, goats, sheep and llamas.**
3840. "Loading space" means an off-street space or berth on the same lot with a building or structure, to be used for the temporary parking of commercial vehicles while loading or unloading merchandise or materials.
3941. "Lot" means a parcel of land occupied or to be occupied by a principal use and having frontage on a public street.
402. Lot, Corner. "Corner lot" means a lot situated at the junction of, and bordering on, two (2) intersecting streets.
413. "Lot depth" means the horizontal distance between the front and rear lot lines, measured in the mean direction of the side lot lines.
424. Lot Line, Front, Corner Lot. "Front lot line, corner lot" means the shortest street line of a corner lot.
435. Lot Line, Front, Interior Lot. "Front lot line, interior lot" means a line separating the lot from the street.
446. Lot Line, Rear. "Rear lot line" means a line that is opposite and most distant from the front lot line and, in the case of a irregular, triangular or gore-shaped lot, a line not less than ten feet (10') in length, within a lot, parallel to and at the maximum distance from the front lot line.
457. Lot Line, Side. "Side lot line" means any lot boundary line not a front lot line or a rear lot line.
468. "Lot width" means the mean horizontal distance separating the side lot lines of a lot and at right angles to its depth.
479. "Mobile food unit" means a type of food service that is located inside of a vehicle, trailer, or cart and is capable of moving easily daily. These units, unless they are a pushcart, must be capable of being licensed by the state of Alaska as a motor vehicle, and can be moved without special conditions (such as pilot car, flagging, or restricted hours of movement) except that the unit may be connected to electrical service in accordance with the adopted electrical code, per Chapter 15.02. Mobile units must completely retain their mobility so that they can be easily moved from the site.

There are several different types of mobile food units: pushcart food service, mobile food unit (not self-contained), mobile food unit (self-contained), and mobile food retail unit defined as follows:

- a. "Pushcart food service" means a type of food service unit that is wheeled, nonmotorized, and which is manually movable by one (1) or two (2) persons. A pushcart must contain on or within the cart sufficient food, utensils, paper products, cleaning supplies, potable water supply, and wastewater holding capacity for daily operations. This type of mobile food unit is prohibited within the borough, except when authorized under Section 5.20.010(C)(2).
- b. "Mobile food unit (not self-contained)" means a type of food service that requires the support of a commissary or warehouse. Menu may be limited.
- c. "Mobile food unit (self-contained)" means a type of food service that sells packaged retail food items or whole or packaged seafood. The market is operated out of a vehicle or trailer which is registered by the state of Alaska as a motor vehicle.
- d. "Mobile food retail unit" means a market operated out of a vehicle or trailer which is registered by the state of Alaska as a motor vehicle. This type of retail unit may sell packaged retail items, packaged retail food items, or packaged and/or whole seafood.

~~48~~50. "Mobile retail unit" means a type of store that is located in a vehicle, trailer, or cart and is capable of moving easily daily. These units, unless they are a pushcart, must be capable of being licensed by the state of Alaska as a motor vehicle, and can be moved without special conditions (such as pilot car, flagging, or restricted hours of movement) except that the unit may be connected to electrical service in accordance with the adopted electrical code, per Chapter 15.02. Mobile units must completely retain their mobility so that they can be easily moved from the site.

There are several different types of mobile retail units: pushcart retail service, mobile retail unit (not self-contained), and mobile retail unit (self-contained) defined as follows:

- a. "Pushcart retail service" means a type of retail unit that is wheeled, nonmotorized, and which is manually movable by one (1) or two (2) persons. This type of mobile retail unit is prohibited within the borough, except when authorized under Section 5.20.010(C)(2).
- b. "Mobile retail unit (not self-contained)" means a type of retail service that requires the support of a commissary or warehouse (such as a farmers' market as defined in subsection (B)(~~26~~27) of this section).
- c. "Mobile retail unit (self-contained)" means a type of retail service that sells packaged or unpackaged retail items. The market is operated out of a vehicle or trailer which is registered by the state as a motor vehicle.

~~49~~51. "Mobile home" means a detached single-family dwelling designed for long-term human habitation and having complete living facilities, constructed and

fabricated into a complete unit at a factory and capable of being transported to location of use on its own chassis and wheels, identified by model number and serial number by its manufacturer, and designed primarily for placement on an impermanent foundation. A mobile home shall continue to be classified as such regardless of its actual placement upon concrete or other permanent foundation, or removal of wheels, or addition of base skirts, or any combination of the foregoing.

- ~~502~~. "Mobile home park" means any parcel or adjacent parcels of land in the same ownership which is used for occupancy by more than two (2) mobile homes. This term shall not be construed to mean tourist facilities for parking of travel trailers, RVs or campers.
- ~~513~~. "Motel" means a group of one (1) or more detached or semidetached buildings containing two (2) or more individual dwelling units and/or guest rooms designed for or used temporarily by automobile tourists or transients, with a garage attached or parking space conveniently located to each unit, including groups designed as auto courts, motor lodges or tourist courts.
- ~~524~~. "Motor home" means a vehicular unit designed to provide temporary living quarters for recreational, camping, or travel use, built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van that is an integral part of the completed vehicle.
- ~~535~~. "Nonconforming building" means any building or structure, or any portion thereof, lawfully existing on November 2, 1972, which was designed, erected or structurally altered for a use that does not conform to the use regulations of the zone in which it is located, or a building or structure that does not conform to all the height and area regulations of the zone in which it is located.
- ~~546~~. Nursery, Children's. "Children's nursery" means any home or institution used and maintained to provide day care for children not more than seven (7) years of age.
- ~~557~~. Parking Space, Private. "Private parking space" means any automobile parking space not less than ten feet (10') wide and twenty feet (20') long.
- ~~568~~. Parking Space, Public. "Public parking space" means an area of not less than two hundred fifty (250) square feet, accessible from streets and alleys, for the storage of passenger motor vehicles operated by individual drivers.
- ~~579~~. "Person" means a natural person, his heirs, executors, administrators, or assigns, and also including firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid.
- ~~5860~~. "Principal use" means the major or predominant use of a lot or parcel of land.
- ~~5961~~. "Recreational vehicle park" is a tourist facility for parking motor homes and travel trailers and other recreational vehicles.
- ~~602~~. "Service station" means any building, structure, premises or other space used primarily for the retail sale and dispensing of motor fuels, tires, batteries, and other small accessories; the installation and servicing of such lubricants, tires, batteries and other small accessories; and such other

services which do not customarily or usually require the services of a qualified automotive mechanic.

- 63. "Setback" means the perpendicular distance from the lot line to the nearest point on a building or structure, including, but not limited to, porches, steps, and roof edges.**
- ~~644.~~ "Sign" means any words, letters, parts of letters, figures, numerals, phrases, sentences, emblems, devices, trade names or trademarks by which anything is made known, such as are used to designate an individual, a firm, an association, a corporation, a profession, a business or a commodity or product, which are visible from any public street or highway and used to attract attention.
- ~~625.~~ "State highway" means a right-of-way classified by the state as a primary, secondary A or secondary B highway.
- ~~636.~~ "Storage trailer and van" means a wheeled van or container unit not manufactured as a motorized vehicle or intended for long-term or short-term occupancy, but designed and manufactured for the primary purpose of storage and/or transporting commodities and goods.
- ~~647.~~ "Street" means a public right-of-way used as a thoroughfare and which is designed and intended to provide the primary means of access to property abutting thereon.
- ~~658.~~ "Street line" means the line of demarcation between a street and the lot or land abutting thereon.
- ~~669.~~ "Structure" means ~~that which is built or constructed, a building of any kind, composed of parts joined together in some definite manner~~ **anything constructed or erected and located on or under the ground, or attached to a fixed point on the ground.**
- ~~6770.~~ "Tent" means a temporary structure, enclosure or shelter constructed of fabric pliable material, supported by any manner except by air or the contents it protects. The term "tent" includes "yurt," which is a portable, wood lattice-framed dwelling structure covered by material such as felt or canvas.
- ~~6871.~~ "Trailer park" means any parcel or adjacent parcels of land in the same ownership which is utilized for occupancy, either free of charge or for revenue, together with any building, structure or enclosure. This term shall not be construed to mean tourist facilities.
- ~~6972.~~ "Travel trailer" means a vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping or travel use, of such size or weight as not to require special highway movement permits when towed by a motorized vehicle, and of gross trailer area less than three hundred twenty (320) square feet (29.7 square meters).
- ~~703.~~ "Use" means the purpose for which land or a building is arranged, designed or intended, or for which either land or a building is or may be occupied or maintained.
- 74. "Wildlife" means animals that live independently of people, in natural conditions.**

745. "Yard" means an open, unoccupied space, other than a court, unobstructed from the ground to the sky except where specifically provided by this title, on the same lot on which a building is situated.
726. Yard, Front. "Front yard" means a yard extending across the full width of a lot, measured between the front lot line of the lot and the nearest exterior wall of the building which is the nearest to the front lot line.
737. Yard, Rear. "Rear yard" means a yard extending across the full width of the lot between the most rear main building and the rear lot line.
748. Yard, Side. "Side yard" means a yard on each side of a main building, and extending from the front lot line to the rear lot line. The width of the required side yard shall be measured horizontally from the nearest point of a side lot line to the nearest part of the main building.
759. Yards.
- a. In the case of double frontage lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards shall be provided on all frontages. Where one of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the planning official may waive the requirement for the normal front yard and substitute a special yard requirement that will not exceed the average of the yards provided on adjacent lots.
  - b. In the case of corner lots, a front yard of the required depth shall be provided in accordance with the prevailing yard pattern and a second front yard of half the depth required generally for front yards in the district shall be provided on the other frontage.
  - c. In the case of corner lots with two (2) or more frontages, the planning official shall determine the front yard requirements, subject to the following limitations:
    - (i) At least one (1) front yard shall be provided having the full depth required generally in the district;
    - (ii) No other front yard on such lot shall have less than half the full depth required generally.
  - d. In the case of corner lots in the Skagway business-historical zoning district which abut two (2) rights-of-way, sixty feet (60') wide or wider, both adjoining yards shall be front yards. No setbacks are required on front yards in this zoning district, and neither front yard of these corner lots shall require a setback, unless the planning official determines that such allowance does not correspond with prevailing yard patterns. In such case, the planning official shall determine any additional setback requirements.
7680. "Zoning change" means the alteration or moving of a use district boundary; the reclassification of a lot or parcel of land from one (1) zone to another.

**Section 4. Amendment.** SMC chapter 19.04.020 General Provisions is hereby amended as follows:

19.04.020 General provisions.

A. District boundaries.

1. Where uncertainty exists as to the boundaries of districts as shown on the zoning map, the following rules shall apply:
  - a. Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines;
  - b. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
  - c. Boundaries indicated as approximately following section or section subdivision lines shall be construed as following such section or such section subdivision lines;
  - d. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and any such lines shall be construed as moving with the actual shoreline;
  - e. In unsubdivided property the location of any district boundary, unless the same is indicated by dimensions shown on same map, shall be determined by the use of the scale appearing thereon;
  - f. In other circumstances not covered by paragraphs (a) – (e) of this subsection, the planning commission shall interpret the district boundaries.
2. Where any public street or alley is officially vacated, the regulations applicable to each parcel of abutting property shall apply to that portion of such street or alley added thereto by virtue of such vacation.
3. Any land newly included within the corporate boundaries of the municipality subsequent to the adoption of the regulations codified in this chapter shall be automatically classified in the RC district until otherwise classified by amendment.

B. Uses.

1. Uses other than those specifically permitted in each of the districts may be permitted, provided that such uses are similar to those mentioned and are determined by the planning commission to be not more detrimental to the welfare of the community than the permitted uses.
2. Uses other than those specifically excluded from each of the districts may be excluded provided that such uses are determined by the planning commission to be not less detrimental to the welfare of the community than those uses specifically excluded.

**C. Setbacks.**

1. **Setbacks are measured from the outermost portion of the building to the nearest lot line. Incidental architectural features such as window sills, cornices and eaves may not project into any required setback. This regulation also applies to cantilevered floors, decks or other similar structures. No building or structures may be located within a setback.**

- 2. The following items shall be exempt from setback requirements, provided the item is located to achieve its purpose without constituting a hazard to vehicles or pedestrians, is located such that it does not obscure sight angles at intersections or driveways, and is not in any location prohibited by state regulation or other municipal ordinance:**
- a. Fences in accordance with SMC 19.04.020(F)(1);**  
**b. Garden boxes.**
- 3. Where more than one setback standard is applicable, the most restrictive setback standard applies.**

**CD.** Height of Buildings.

1. Roof structures for the housing of equipment required to operate and maintain the building, or other necessary structures such as stairwells, chimneys and flagpoles, may be erected above the prescribed height limit, but no roof structure shall be erected for the purpose of providing additional floor space above the prescribed height limit.

**DE.** Lots and Lot Areas.

1. The requirements as to minimum lot area shall not be construed to prevent the use for a one (1) family dwelling or any lot or parcel of land, in the event that such lot or parcel of land was, on the effective date of the regulations codified in this title, legally subdivided and separately owned.
2. No lot or parcel of land shall be reduced in any manner below the required minimum lot area or width.
3. No lot area shall be so reduced, diminished or maintained that the yards or other open spaces or total lot area shall be smaller than prescribed by these regulations.
4. Every building hereafter erected shall be located on a lot as herein defined. If it is located on two (2) or more lots, the building location must conform to the side yard requirements, or it may straddle an interior lot line of such a parcel or lots. In no case shall there be more than one (1) main residential building and its accessory buildings on one (1) lot, unless specifically provided otherwise.

**EF.** Yards.

1. Where yards are required, they shall not be less in depth or width than the minimum dimensions in any part, and they shall be at every point open and unobstructed from the ground to the sky, except as follows:
- a. Outside stairways, fire escapes or porches, if unroofed and unenclosed, may extend into a required yard for a distance not to exceed three feet (3').
- b. Cornices, canopies, eaves or other similar architectural features not providing additional floor space within the building may not extend more than two feet (2') into a required yard.
- c. A detached accessory building not exceeding fourteen feet (14') in height may be permitted to occupy a rear yard, provided that not

more than one-third (1/3) of the total area of such rear yard shall be so occupied.

**FG.** Fences and Walls.

1. On any corner lot in any RG district, there shall be no fence or hedge more than three and one-half feet (3' 6") high within twenty-five feet (25') of the intersection of the adjacent street lines, except that shade trees or other plants of sufficient height to permit sight under the lowest branches or foliage may be permitted.

**Section 5. Amendment.** SMC chapter 19.06.025 RLD – Residential-Low Density Zone is hereby amended as follows:

19.06.025RLD—Residential-low density zone.

This zoning district is intended to provide an area for low- to moderate-density residential development on adequate lot sizes to preserve the natural beauty of the area creating parks, prohibiting business including tourism business bases with limited housing rentals allowable by conditional use. Also to create green belts and establish setback requirements adequate to preserve the viewshed and create small roadside parks and picnic areas, view points and scenic overlooks along Dyea Bay.

Criteria for lands that are included in this zoning district are those that are relatively restricted in their development due to natural features and the lay-of-the-land, and that are presently without municipal water and municipal sewer.

**A.** Uses Permitted.

1. Principal Uses.

- a. Public parks and open space recreation;
- b. Watershed reserve;
- c. Single-family residence;
- d. Duplex; two (2) family residence;
- e. One (1) private garage per living unit;
- f. Noncommercial public water, sewer, electric and communication facilities;
- g. Municipal public facilities such as fire department substation, solid waste transfer station, public works substation, and emergency services landing areas.

2. Accessory Uses.

- a. Uses and structures customarily accessory and clearly subordinate to permitted principal uses, as determined by the building official;
- b. Necessary outbuildings, accessory buildings not to exceed three hundred twenty (320) square feet per use as listed in subsections (A)(2)(b)(i) through (vi) of this section:
  - (i) One (1) storage shed per lot: a semi-trailer, freight container, house trailer, RV travel trailer, storage trailer or van, may not be used as a long term or permanent storage shed;



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- (ii) Generator shed;
    - (iii) Tool shed;
    - (iv) Private personal use greenhouse;
    - (v) Well house;
    - (vi) Wood shed.
  - c. Home occupations; provided, that the conditions listed in Section 19.02.065(B)(34) are met;
  - d. Private personal use gardens;
  - e. Farmers' markets in accordance with Section 19.02.065(B)(~~26~~**27**).
- 3. Conditional Uses.
  - a. Churches;
  - b. Day care facilities;
  - c. Temporary structures for residential use, used in conjunction with building or land development, for up to eighteen (18) months;
    - (i) "Temporary structure for residential use" means RV or trailer or other livable structure of at least one hundred (100) square feet with sanitary and kitchen facilities to be occupied during construction of a permanent residence that will be removed at the end of the eighteen (18) month construction period;
  - d. Accessory Housing Structures;
    - (i) Minimum of one hundred ninety (190) square feet;
    - (ii) Maximum of one thousand (1,000) square feet;
    - (iii) Must have an Alaska Department of Environmental Conservation approved water system and sewer system, and must have electricity; all must meet current codes;
    - (iv) No setback variances will be granted for new construction;
    - (v) All lot coverage, off-street parking and setback requirements for this zone still apply;
    - (vi) Construction must meet International Building Code for efficiency dwelling units;
  - e. Commercial public water, sewer, electric, communication and other facilities;
  - f. Multiple storage structures or storage structures above three hundred twenty (320) square feet;
  - g. Taverns and bars;
  - h. Restaurants serving alcohol;
  - i. Service stations;
  - j. Community gardens in accordance with Section 19.02.065(B)(17);
  - k. Commercial greenhouses, agriculture and horticulture;
  - l. Retail marijuana stores, marijuana cultivation facilities, marijuana product manufacturing facilities, and marijuana testing facilities;
  - m. Other uses as determined by the planning commission pursuant to Section 19.04.060(B).
- B. Prohibited Uses.

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1. Any use or structure not of a character indicated under permitted principal and accessory uses, or permitted by conditional uses;
  2. Mobile homes;
  3. Congregate residences/apartment houses/multiple-family structures;
  4. Sand and gravel operations;
  5. Mining and quarry operations;
  6. Kennels;
    - a. ~~Definitions.~~
      - (i) ~~"Kennel" means a place where domestic animals or birds are kept or bred in numbers greater than six (6) per species and may include fenced areas, yards or structures. This definition shall not apply to areas used for the keeping of animals by veterinarians or the municipality.~~
      - (ii) ~~"Domestic animal" means every kind of animal that is domesticated (not wildlife), including (without limitation) livestock of all kinds, dogs, cats, monkeys, birds and reptiles.~~
      - (iii) ~~"Livestock" means every kind of domestic animal that is four (4) footed and ordinarily larger than a dog; and includes (without limitation) cattle, horses, swine, goats, sheep and llamas;~~
  7. Timber harvesting and storage;
  8. Cemeteries;
  9. Pipelines and railroads;
  10. Commercial recreation operations on municipal land;
  11. Campgrounds.
- C. Minimum Lot Requirements.
1. Lot Area.
    - a. Property owners as of the date of this ordinance may subdivide their property into no less than one (1) acre lots.
    - b. Two and one-half (2-1/2) acres.
    - c. Except that all lots within Taiya Inlet Subdivision created October 29, 2007, Plat # 2007-6 shall not be reduced in size.
  2. Lot must be wide enough to provide access and other easements and setbacks.
- D. Minimum Building Setback Requirements.
1. Road frontage, twenty-five feet (25');
  2. All other lot lines, twenty feet (20');
  3. Setbacks between structures shall be regulated by the International Building Code, Tables 601 and 602.
- E. Maximum Lot Coverage by Buildings. Fifteen percent (15%).
- F. Maximum Height of Buildings. Three (3) stories, but not to exceed thirty-five feet (35') in any case.
- G. Parking Requirements. All requirements within Section 19.08.020, Provision of off-street parking, must be followed. Required off-street parking shall allow enough parking for all occupants to park all personal vehicles off-street.

- H. Sanitary Treatment System. Septic systems, leaching fields, or other private sewerage facilities may be permitted; provided, that the owner or developer submits plans stamped by an engineer licensed in Alaska, percolation and water table depth data suitable for analysis of the feasibility for on-lot water and sewer systems to the municipality and the Alaska Department of Environmental Conservation. Project applicants/owners are responsible for ensuring that their project meets all federal and state septic systems, leaching fields, or other private sewerage facility requirements.
- I. Flood Protection. Some lands in the residential-low density (RLD) zoning district may fall within the Taiya River floodplain (SCMP Figure 3.3 Natural Hazards Boundary Map). The planning or building official or planning commission must ensure that all requirements within Chapter 15.12, Flood Zone Land Use, are followed, particularly those at 15.12.040, that govern building and sanitary system construction in these areas.
- J. Visibility at Intersections.
  - 1. No vehicle shall be parked within twenty feet (20') of any street intersection;
  - 2. To ensure that a vehicle's driver has good visibility at street intersections, on corner lots there shall not be a fence, wall, hedge, or other planting or structure that will impede visibility between a height of two feet six inches (2'6") and eight feet (8') above the centerline grades of the intersecting streets.

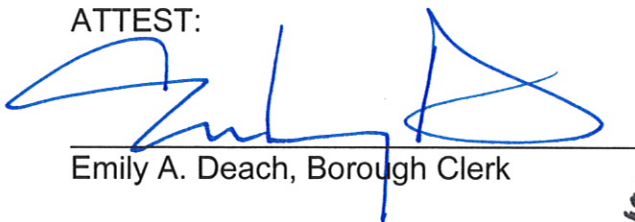
**Section 6. Severability.** If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

**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 20<sup>th</sup> day of April, 2017.

  
Mark Schaefer, Mayor

ATTEST:

  
Emily A. Deach, Borough Clerk

(SEAL)

