

Proposed by:	Mayor Schaefer
Attorney Review:	04/12/2017
First Reading:	04/20/2017
Second Reading:	05/04/2017
Tabled to:	05/18/2017
Vote: 5 Aye 0 Nay 0 Absent 1 Vacant	

MUNICIPALITY OF SKAGWAY, ALASKA
ORDINANCE NO. 17-07

AN ORDINANCE OF THE MUNICIPALITY OF SKAGWAY, ALASKA AMENDING SMC 3.01.070 TELECONFERENCING TO DISALLOW MAYOR AND ASSEMBLY PARTICIPATION IN EXECUTIVE SESSION BY TELECONFERENCE.

WHEREAS, prior to January 3, 2013, Mayor and Assembly participation in executive session by telephone was prohibited; and

WHEREAS, Ordinance No. 12-27 removed the prohibition of participation by the Mayor and Assembly members in executive session via telephone; and

WHEREAS, the confidential nature of executive session may be compromised by use of the Municipality’s teleconference line during the session; and

WHEREAS, there is a desire to add the language regarding this prohibition back into 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 SMC 3.01.070 to disallow Mayor and Assembly participation in executive sessions via the municipal teleconference line, and to allow participation in executive sessions only via private telephone. 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 3.01.070 is hereby amended as follows:

- A. The use of teleconferencing at assembly meetings is for the purpose of serving the public and the convenience of government officials and, in addition, to allow, whenever necessary, the convening of emergency assembly meetings despite the lack of a physically present quorum. Teleconference participation by the mayor and assembly members is authorized by AS 44.62.310(a) and 44.62.312. While physical presence of the mayor and assembly members is the preferred method of participation at assembly meetings, the mayor and assembly members are allowed to participate at assembly meetings in the following manner:

1. The mayor or a member of the assembly may participate by telephone in an assembly meeting. If the mayor chooses to participate by telephone, the vice mayor shall preside.
- 2.** **The mayor or a member of the assembly may not participate in an executive session by using the municipal teleconference line, but may participate by use of a private telephone or private mobile phone.**
- ~~23.~~ The mayor and each member of the assembly may attend four (4), two (2) consecutive, regular assembly meetings by teleconference during the twelve (12) month period commencing January 1st of each year. If the mayor or assembly member has participated telephonically in four (4) regular meetings, and requests to participate telephonically in one (1) or more additional regular meetings, a majority of the quorum of the assembly present may, by roll call vote at the beginning of a regular meeting, grant further telephone participation for use only during that regular meeting to the mayor or to any assembly member who has exhausted their teleconferencing. The mayor or assembly member requesting the additional telephonic participation does not count toward a quorum and may not vote on whether the assembly will allow the telephonic participation. Requests for additional telephonic participation by the mayor or an assembly member beyond the permitted four (4) shall be prioritized in the order that they are received by the borough clerk in writing.
- ~~34.~~ The mayor and each member of the assembly may attend special assembly meetings and assembly of the whole committee meetings by teleconference with no limit as to number.
- ~~45.~~ Participating in a meeting by teleconference while out of town on municipal business does not count toward the four (4) regular meetings permitted in subsection (A)(2) of this section.
- ~~56.~~ No more than three (3) members of the assembly and the mayor may participate by telephone at any one (1) regular, special or assembly of the whole committee meeting, including participation of the mayor or assembly member requesting additional telephonic participation beyond the four (4) permitted in subsection (A)(2) of this section.
- ~~67.~~ A minimum of forty-eight (48) hours' notice shall be given to the clerk regarding telephonic participation in a particular meeting, except in the case of an emergency assembly meeting.
- ~~78.~~ All members of the assembly may participate telephonically in emergency assembly meetings, and need not be physically present to establish a quorum of four (4).
- ~~89.~~ The mayor or a member of the assembly participating by telephone shall be counted as present for purposes of discussion, voting and attendance.
- ~~910.~~ The meeting packet is loaded on the municipal website and a member participating by telephone shall review all materials provided. The member shall provide the telephone number and any available facsimile, email, or other document transmission service to the clerk and, to the extent reasonably practicable, the clerk shall provide backup materials to members participating by telephone.
- ~~101.~~ The mayor or members participating by telephone shall make every effort to participate in the entire meeting, including any executive session scheduled.

From time to time during the meeting the borough clerk shall confirm the connection. Any person participating in an executive session via private telephone or mobile phone shall state that there is no one else present and that the phone line or mobile device is secure and cannot be accessed by any other person during the executive session.

142. The clerk shall provide the mayor or member participating by telephone with the municipality's conferencing number. At the meeting, the clerk shall establish the telephone connection when the call to order is imminent. If the telephone connection cannot be made or is made then lost, the meeting shall commence or continue as scheduled and the clerk shall attempt to establish or restore the connection.
123. Meeting times shall be expressed in Alaska time regardless of the time at the location of any member participating by telephone.
- B. Cost of Teleconference Participation. The mayor or any member of the assembly who participates by telephone shall not be charged for any telephone costs associated with the teleconference participation.
- C. Determination of Emergency Conditions. A determination of emergency under this section may be made by the mayor or the manager if any of the following conditions are present:
1. Fire, flood, epidemic, riot, environmental accident, or a similarly compelling reason;
 2. Events for which immediate action is necessary to protect public health, welfare, or safety, or to protect public or private property.

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.

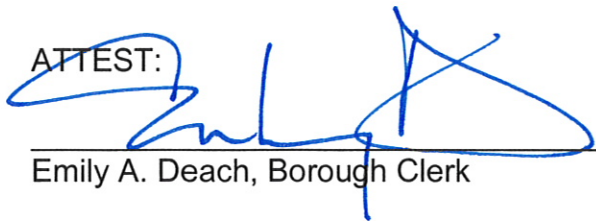
Section 5. Effective Date. This ordinance shall become effective immediately upon adoption.

PASSED AND APPROVED by a duly constituted quorum of the Borough Assembly of the Municipality of Skagway this 18th day of May, 2017.



Mark Schaefer, Mayor

ATTEST:



Emily A. Deach, Borough Clerk

(SEAL)

