

Proposed by:	Planning & Zoning Commission
Attorney Review:	11/29/2018
First Reading:	12/06/2018
Second Reading:	12/13/2018
Vote: 5 Aye	0 Nay 1 Absent

**MUNICIPALITY OF SKAGWAY, ALASKA  
ORDINANCE NO. 18-21**

**AN ORDINANCE OF THE MUNICIPALITY OF SKAGWAY, ALASKA AMENDING SMC 8.04 NUISANCES TO PROVIDE FOR THE REGULATION OF NUISANCES ON PUBLIC RIGHTS-OF-WAY.**

**WHEREAS**, the Planning and Zoning Commission held a public hearing on November 8, 2018 on this code amendment proposal; and

**WHEREAS**, following the public hearing the Planning and Zoning Commission voted to recommend that the Assembly adopt this proposed code amendment to provide for the regulation of nuisances on public rights-of-way;

**NOW THEREFORE BE IT ORDAINED AND ENACTED BY THE MUNICIPALITY OF SKAGWAY, ALASKA AS FOLLOWS:**

**Section 1. Classification.** Sections 3, 4, and 5 of this ordinance are of a general and permanent nature and shall become a part of the Skagway Municipal Code.

**Section 2. Purpose.** To amend SMC Section 8.04.010 Nuisances declared, Section 8.04.035 Bear attraction nuisance, and Section 8.04.070 Junk and debris prohibited, of SMC Chapter 8.04 Nuisances, to provide for the regulation of nuisances on public rights-of-way.

**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. SMC 8.04.010 Nuisances declared is hereby amended as follows:

8.04.010 Nuisances declared.

It shall be unlawful for any person, firm or corporation to permit or maintain the existence of a nuisance on any **private or public** property ~~under his or its control~~ **within the municipality**. For purposes of this chapter, "nuisance" means any act or condition which is injurious to the public health, or which prevents or obstructs the free and comfortable enjoyment of life and property, or is dangerous to surrounding property. Whenever a nuisance is deemed to exist, it may be abated by the chief of police at the expense of the person maintaining such nuisance.

**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. SMC Section 8.04.035 Bear attraction nuisance is hereby amended as follows:

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8.04.035 Bear attraction nuisance.

- A. Offense. Except as provided in this section, no owner or person in charge of property shall cause or allow the creation or maintenance of a bear attraction nuisance on that property or the adjacent right-of-way.
- B. Citations. Whenever waste or other material in violation of this section is found on property, the officer finding it may note the address and any other information upon or within the material which may identify the owner or person in charge of the property, and shall conspicuously affix to such property a summons and complaint for the owner or person to answer to the charge in court at a specified time.
- C. Definitions. For purposes of this section:
  - 1. "Bear attraction nuisance" means
    - a. More than one-half gallon of any putrescible material, including packaging or other surfaces to which the material is adhered;
    - b. Any organic material of a type which has previously attracted a bear to the property;
    - c. Soiled disposable diapers;
    - d. Exceptions. "Bear attraction nuisance" does not include:
      - i. Manure or sewage;
      - ii. Material in a garbage can stored outside temporarily for purposes of collection after 4:00 a.m. on a day scheduled for collection;
      - iii. Living or dead flora or fauna indigenous to the property on which it is located;
      - iv. Material completely enclosed in a structure or container which requires hands or tools to open;
      - v. Material in a metal garbage container designed to be lifted and emptied by a garbage truck, provided that the container is tightly covered or located within a garbage containment area behind barriers approved by the Municipality as sufficient to withstand entry by a bear.
  - 2. "Garbage can" means a watertight, odor-free, corrosion-resistant container and equipped with a tight-fitting cover secured so as to remain in place if the can is knocked over.
  - 3. "Person in control" means a tenant or an agent, superintendent, or other owner's representative.
  - 4. "Property" means developed or undeveloped real property, including any street, road, alley, sidewalk, right-of-way, apartment house, mobile home park, planned unit development, or other multifamily development.

**Section 5. 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. SMC 8.04.070 Junk and debris prohibited is hereby amended as follows:

8.04.070 Junk and debris prohibited.

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No owner, lessee, agent, tenant or occupant shall allow or permit any junk, debris, or indiscriminate storage of machinery, equipment parts, lumber or other material, or of discarded motor vehicles or refrigerators, or any accumulation of garbage, manure, offal, rubbish or stagnant water, or any filthy liquid or substance, or anything that is or may become putrid or offensive, to be or remain upon ~~his yard, lot or premises, or upon any~~ yard, lot or premises controlled by him/her, or on a sidewalk or public way adjacent to or adjoining the owner's property.

**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.

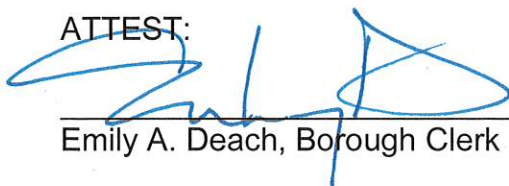
**Section 7. Effective Date.** This ordinance shall become effective immediately upon adoption.

**PASSED AND APPROVED** by a duly constituted quorum of the Borough Assembly of the Municipality of Skagway this 13<sup>th</sup> day of December, 2018.



Monica Carlson, Mayor

ATTEST:



Emily A. Deach, Borough Clerk

(SEAL)

