

Proposed by:	Assemblymember Henry	
Attorney Review:	05/06/2020	
First Reading:	05/07/2020	
Second Reading:	05/21/2020	
Vote: 3 Aye	2 Nay	1 Absent

**MUNICIPALITY OF SKAGWAY, ALASKA
ORDINANCE NO. 20-12**

AN ORDINANCE OF THE MUNICIPALITY OF SKAGWAY, ALASKA AMENDING SMC SECTION 15.08.055 OPEN BURNING OF SMC 15.08 FIRE PREVENTION CODE TO CONSOLIDATE OPEN BURN HOURS TO PROTECT PUBLIC HEALTH AND SAFETY.

WHEREAS, the Skagway Volunteer Fire Department wishes to consolidate the hours during which permit holders can have open burns, to cut down on air pollution; and

WHEREAS, burn hour restrictions contribute greatly to reducing air pollution levels and their effect on public health and safety;

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

Section 1. Classification. Section 3 of 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 Section 15.08.055 Open Burning of SMC 15.08 Fire Prevention Code to consolidate open burn hours to protect public health and safety.

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 Section 15.08.055 Open Burning is hereby amended as follows:

15.08.055 Open burning.

A. Definitions.

1. "Burn" is defined as causing, initiating and/or maintaining flaming combustion of solid or liquid fuels, whether in an enclosed incinerator, in a burn barrel or in an unenclosed pile.
2. "Open burning" is defined as the burning of material which results in the products of combustion being emitted directly into the ambient air without passing through a stack or flue.
3. "Burn permit" is defined as permission to burn, obtained from the fire department administrative office.
4. "Municipal burn ban" is defined as a ban against burning in the municipality due to dry or unsafe conditions; this ban can be implemented by the fire chief, fire marshal or designee. Such bans may be established municipality wide or may be modified for specific open burning activities as fire conditions dictate.
5. "Smolder" means to burn and smoke without flames.

6. "Putrescible garbage" is described as material that can decompose and cause obnoxious odors.
 7. **"Recreational Burn" is described as an open burn in an approved campground burn ring, or an open burn in an approved backyard burn ring or self-contained portable outdoor fireplace.**
- B. General Requirements. **Open burning, with the exception of recreational burning, shall be allowed only during daily burning hours, 8:00 a.m. to 8:00 p.m. or as permitted by the fire chief.** A person conducting open burning, **including recreational burning,** must ensure that:
1. The material is kept as dry as possible through the use of a cover or dry storage;
 2. Before igniting the burn, noncombustibles are **shall be** separated **out** to the ~~greatest extent practicable~~;
 3. Natural or induced draft is present;
 4. To the greatest extent practicable, combustibles are separated from grass or peat layer;
 5. Combustibles are not allowed to smolder or emit excessive smoke.
- C. Restrictions.
1. No person may engage in the open burning of any material except as authorized by a valid open burning permit. There is no right to open burning. Open burning permits may be issued by the fire chief, **local fire marshal,** or the fire chief's designee upon application.
 2. It is unlawful to conduct open burning during a "municipal burn ban," unless the open burn activities are done in accordance with any modifications to the ban in effect.
 3. Open burning which creates a danger to public health or safety shall not be allowed.
 4. Open burning activities must be limited to ordinary combustibles such as paper, wood **trimming** debris, or natural fibers.
 5. No person may cause or allow the open burning of: asphalt, rubber, plastic, tar, wire insulation, petroleum products, petroleum-based products, petroleum-treated products, automobile parts, treated lumber, oily waste, contaminated oil clean up material, putrescible garbage, animal carcasses or any other materials that may produce black smoke **or obnoxious odors.**
 6. It is unlawful to conduct the open burning of trash, waste, rubbish, refuse, slash, construction scraps, grass or weeds within the municipality unless the person attending the burn complies with the rules set forth in the burn permit application and the following requirements:
 - a. The attendant has obtained a municipal burn permit;
 - b. The attendant has notified the police department before the burn starts;
 - c. The attendant must burn according to permit conditions;
 - d. The attendant must observe all burning restrictions;

- e. The attendant is over the age of fourteen (14) years old;
 - f. The attendant watches the open burn until it ceases to flame;
 - g. The attendant must be able bodied enough to endure the strenuous activities involved with trying to control the fire while suppression forces arrive in case of an emergency;
 - h. The attendant must not be under the influence of alcohol or drugs;
 - i. The attendant must be able to call for assistance in the event of a problem;
 - j. The open burn is no closer than ten feet (10') to any structure **if contained by a burn ring, or twenty feet (20') for an open burn pile;**
 - k. The attendant prevents the spread of fire to any other structure or property;
 - l. The attendant has a sufficient water supply to extinguish the open burn; or is equipped with a firefighting tool such as a shovel, heavy duty rake, wet gunny sack, or hose.
- D. Permit. The permit, if issued, shall only be valid during the calendar year in which it was obtained and shall have a specified location and expiration date. The fire chief **or local fire marshal** may refuse **or revoke** issuance to any applicant at any time.
- E. Liability. The municipality, or the fire chief, shall be indemnified and saved harmless and free from all liabilities, claims, demands, suits, judgments and actions of any kind and any nature whatsoever arising out of issuing the burning permit. The property owner shall be liable for any and all personal and property damages, including death, resulting from the open burn.
- F. Enforcement. When complaints regarding open burning are received by the police department or the fire department, the police department will be sent out to investigate the complaint. If the police department finds the open burn to be in violation of the municipal code or burn permit, the police department will ask that the fire be extinguished or the fire department will be called to extinguish it. In addition to any civil penalty incurred, the fire chief or his designee may, at their discretion, revoke the right to obtain a burn permit for up to one (1) calendar year as a result of infractions or violations to this code.
- G. Exceptions.
- 1. Open burning of structures is allowed for the purpose of firefighter training; provided, that the fire department has acquired the requisite Alaska Department of Environmental Conservation approval and made all the proper notifications and modifications.
 - 2. Special burn permits may be issued by the fire chief, fire marshal or designee.

H. Civil Fines.

1. Open burning violations shall be subject to a civil fine. The borough assembly shall establish an open burning fine schedule by resolution.

I. Failure to contact the Skagway police department within five (5) days of the date of the notice of violation and arrange a payment schedule for the fine acceptable to the police department, or to pay the fine for a violation within five (5) days of the date of the notice of violation, or to file an appeal of a notice of violation within ten (10) days of the date of the notice of violation, will result in an additional fee in the amount of the civil fine.

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 ___ day of _____, 2020.

Andrew Cremata, Mayor

ATTEST:

Emily A. Deach, Borough Clerk

(SEAL)