

Proposed by:	Assemblymember Burnham
Attorney Review:	
DCAB Review:	11/08/2023
First Reading:	11/16/2023
Second Reading:	
Vote: <input type="checkbox"/> Aye	<input type="checkbox"/> Nay <input type="checkbox"/> Absent

MUNICIPALITY OF SKAGWAY, ALASKA
ORDINANCE NO. 23-XX

AN ORDINANCE OF THE MUNICIPALITY OF SKAGWAY, ALASKA AMENDING TITLE 16 PUBLIC LANDS BY AMENDING CHAPTER 16.02 THROUGH CHAPTER 16.12.

WHEREAS, at their meeting on November 8, 2023, the Dyea Community Advisory Board voted to recommended updates to the Dyea Flats Management Plan; and

WHEREAS, the Dyea Community Advisory Board has been reviewing the Dyea Flats Management Plan in-depth over the last several years.

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 Title 16, Public Lands by amending Chapter 16.08 Dyea Flats Management Plan.

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 16.08 Dyea Flats Management Plan.

Chapter 16.08
DYEA FLATS MANAGEMENT PLAN

Sections:

- 16.08.010 Statement of Intent and Goals.
- 16.08.020 Allowed/Prohibited Uses.
- 16.08.030 Permits and Fees.
- 16.08.040 Penalties.

16.08.010 Statement of Intent and Goals.

- A. The Municipality of Skagway recognizes that the Dyea Flats is an area of local, State and national importance. Its historic vale as the “gateway” to the Klondike Gold Rush of 1898 has warranted its inclusion in the Klondike Gold Rush National Historic Park and it’s designation as a National Historic Landmark. An area of scenic beauty and uncommon open space, the Flats is also valued highly by Skagway residents and visitors to the National Park for its recreational and scenic values and for the opportunity it provides to escape the city environs during the busy summer months. The tidal flats have also been recognized for their biological diversity and the habitat that they provide for waterfowl and other fish and wildlife.

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- B. It is the Municipality of Skagway's intent to be a responsible steward of the resources and values of the Dyea Flats in perpetuity. The citizens of Skagway are fond of the Flats as a familiar place for recreation and relaxation. Public testimony and responses to opinion surveys echoed with stories of recreation activities on the Flats and strong statements regarding the need to keep the Flats in public ownership because of its historical, natural and recreational values.
- C. The municipality believes that Skagway residents' use of the Flats for recreation is an extremely important local "public use" that should receive full consideration, along with the interests of the State and national "public," in decisions regarding ownership and management of the area. The municipality also recognizes that the Flats have State and national significance—particularly due to the historic events which took place there nearly 100 years ago, and the artifacts that remain from that time. The Flats are integrally connected to the other historic properties in the National Park, and will be managed by the municipality with that consideration.
- D. It is the municipality's intent to keep the Dyea Flats in public ownership. The Municipality of Skagway will implement this Land Management Plan, in cooperation with the National Park Service, the State of Alaska, other Dyea property owners, and the public.

16.08.020 Allowed/Prohibited Uses.

In order to protect the scenic, historical, ecological and archaeological resources of the Dyea Flats, the following allowed and prohibited uses are adopted.

- A. Allowed Recreational Uses (non-commercial)
 - 1. Walking, Skiing, Bicycling, Snowshoeing
 - 2. Boating, Canoeing, Rafting, Kayaking
 - 3. Interpretation, Public Education
 - 4. Picnicking
 - 5. Remote control airplanes and drones in designated areas in compliance with local and federal regulations
 - 6. Fishing, Hunting, Trapping (in compliance with State/Federal regulations, restricted to small game and water fowl as defined by Alaska Fish & Game)
 - 7. Bird Watching
 - 8. Edible plant gathering
 - 9. Beach log and seaweed harvest for personal use
 - 10. Horseback riding
 - 11. Use of road legal vehicles on designated roads
 - 12. Use of off-road all terrain vehicles (ATV's) on designated roads and off-road in designated areas.
 - 13. Camping, (including recreational vehicles) in designated camping areas
 - 14. Campfires in provided campfire rings
 - 15. Snow machine use on roads and off-roads in designated areas when adequate snow cover is present to protect underlying vegetation.
- B. Allowed Recreational Uses With Permit
 - 1. Use of the Flats by organized groups for "allowed uses" in 16.08.020(A)
 - 2. Camping outside of designated areas
 - 3. Research and inventory related to historic and biological resources
 - 4. Use of the Flats for low impact special events, particularly those that benefit non-profit groups.

5. Commercial recreational uses as provided in 16.08.020(C).
- C. Commercial Uses. There shall be no pre-existing rights. Commercial Recreational Uses are allowed by permit with the following provisions:
1. Designation of Areas Open to Commercial Uses. The borough assembly shall, by resolution, establish an area(s) on the Dyea Flats which shall be the portion of the Flats to which commercial use will be confined.
 2. Dyea Flats – Commercial activity is prohibited on the Dyea Flats except for the ~~two (2)~~ existing permit holders providing non-motorized horse ~~and bicycle~~ tours through their existing ownership.
 - a. There shall be a review by the borough assembly after five (5) years;
 - b. Maximum group size of 12;
 - c. ~~Each~~ **The** vendor is limited to two (2) tours on the Flats at one time ~~and only one (1) tour south of the northern most parking area;~~
 - d. Total passenger volume will not exceed that of ~~each the~~ operator's 1999 visitor volume for product sold on the Dyea Flats **which has been established as 4,900;**
 - e. Other elements of the "Agreement for Limited Commercial Use of the Dyea Flats" shall be directly negotiated with ~~each the~~ vendor;
 - f. Conditions of the contract with ~~each the~~ vendor shall be subject to borough assembly approval; and
 - g. There shall be an annual review of ~~each the~~ vendor by the Dyea Community Advisory Board following the end of the tourist season each year.
 3. General Provisions
 - a. Permit holders are responsible for complying with all State, Federal and local laws applicable to their activities.
 - b. Permit holders shall reimburse the Municipality of Skagway for any damages to municipal property caused by the permit holder's activities.
 - c. Permit holders shall have in their possession at all times the permit issued pursuant to this section.
 - d. Permit holders, as a condition of receiving a permit, shall execute an instrument under the terms of which the permit holder will agree to indemnify, defend and hold harmless the Municipality of Skagway from any and all claims for injury or damage to person or property as a result of the permit holders activities.
 - e. Prior to issuance of a permit, the prospective permit holder must provide the Municipality of Skagway with a certification of insurance showing the permit holder has obtained at least five hundred thousand dollars (\$500,000) combined single limit public liability insurance. This certificate must establish that the municipality is named as an additional insured on such policy, and that the insurer thereof shall notify the municipality twenty (20) days before the policy is modified, cancelled, or terminated.
 - f. Permit holders are responsible for compliance with permit conditions. Any person listed on a permit issued shall be deemed to be jointly and

severally liable for any violation of this chapter by any person or employee operating under the permit.

- g. Each permitted operator shall provide on an annual basis following each season, a report to the municipality of the commercial activity of that season. Such report shall include daily volumes, monthly totals, and seasonal totals of activity.
- h. Permits authorized under this chapter are not transferable, and shall revert back to the municipality in the event of any abandonment or failure to perform.
- i. Permits may be terminated by the municipality at any time.

D. Prohibited Uses

- 1. Commercial activities including tours not permitted, rentals, retail sales or any other uses where compensation is made or offered.
- 2. Grazing
- 3. Unrestricted road vehicles and ATV access
- 4. Camping outside of designated areas without a municipal permit
- 5. Subdivision and/or sale of public lands
- 6. Residential, industrial and commercial structures or other intensive developments.

Commented [SB1]: Identify definition issue or define it.

E. Campground Provisions

- 1. Campers are required to self-register at the established kiosk and to familiarize themselves with burn restrictions and possible animal problems in the area.
- 2. **Campground rules will be established by resolution.**
- ~~2. Camping shall be limited to a total of 14 days within a 45 consecutive day time frame. Long term camping is prohibited. For the purposes of this section long term camping means a duration of more than 14 days within a 45 consecutive day time frame.~~
- ~~3. Collection of registrations shall be once each week by Public Works employees while picking up the trash.~~

16.08.030 Permits and Fees.

- A. Permits - The borough manager shall establish a system for the permitting of uses requiring such permits as identified in section 16.08.020(B) above, except that the borough assembly shall by resolution establish the permit requirements for commercial uses of Dyea Flats. Permits shall be obtained prior to the conduct of any of the intended uses.
- B. Fees – The borough assembly shall establish by resolution a schedule of fees for uses of the Dyea Flats, when and if such fees are determined necessary.

16.08.040 Penalties.

Any violation of this code is a non-criminal infraction, punishable by a civil penalty up to three hundred dollars (\$300) per violation. Each act or violation and every day upon which a violation occurs or continues constitutes a separate offense.

Chapter 16.10
DYEAMANAGEMENT PLAN

Sections:

- 16.10.010 Statement of Intent and Goals.

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- 16.10.020 Allowed/Prohibited Uses.
- 16.10.030 Permits and Fees.
- 16.10.040 Penalties.

- 16.10.010 Statement of Intent and Goals.
 - A. It is the Municipality of Skagway's intent to be a responsible steward of the resources and values of the Dyea and West Creek areas.
 - B. The municipality believes that commercial uses in the Dyea area impacts the Flats and private properties in the area.
 - C. The Municipality of Skagway will implement this Land Management Plan for municipal property outside the Dyea Flats, in cooperation with the National Park Service, the State of Alaska, other Dyea property owners, and the public.

- 16.10.020 Allowed/Prohibited Uses.

In order to protect the scenic, historical, ecological and archaeological resources of the Dyea and West Creek Valleys, the following allowed and prohibited uses are adopted.

- A. Allowed Recreational Uses (non-commercial)
 - 1. Walking, Skiing, Bicycling, Snowshoeing
 - 2. Boating, Canoeing, Rafting, Kayaking
 - 3. Interpretation, Public Education
 - 4. Picnicking
 - 5. Fishing, Hunting, Trapping (in compliance with State/Federal regulations)
 - 6. Bird Watching
 - 7. Edible plant gathering
 - 8. Beach log and seaweed harvest for personal use on municipal property. Harvest of dead and downed firewood for personal use.
 - 9. Horseback riding
 - 10. Use of road legal vehicles on designated roads
 - 11. Use of off-road all terrain vehicles (ATV's) on designated roads and off-road in designated areas.
 - 12. Camping, (including recreational vehicles) in designated camping areas on municipal property
 - 13. Campfires in safe campfire rings
 - 14. Snow machine use on roads and off-roads in designated areas when adequate snow cover is present to protect underlying vegetation.
- B. Commercial Uses. There shall be no pre-existing rights. Commercial Recreational Uses are allowed by permit with the following provisions:
 - 1. Designation of Areas Open to Commercial Uses.
 - a. West Creek: There shall be no commercial tour operations on the West Creek Road or into the West Creek Valley.
 - b. Taiya River: There shall be no commercial tour operations north of the Rafter Put-in on the Taiya River or at the mouth of West Creek where it enters Taiya River.
 - 2. Limits on numbers of permits allowed. The number of commercial permits allowed in Dyea outside of the Dyea Flats shall be three (3). There shall be a separate permit required for each product offered. The borough assembly may,

at its discretion, increase or reduce the number of permits allowed as conditions warrant and as recommended by the Dyea Community Advisory Board.

3. General Provisions
 - a. Permit holders are responsible for complying with all State, Federal and local laws applicable to their activities.
 - b. Permit holders shall reimburse the Municipality of Skagway for any damages to municipal property caused by the permit holder's activities.
 - c. Permit holders shall have in their possession at all times the permit issued pursuant to this section.
 - d. Permit holders, as a condition of receiving a permit, shall execute an instrument under the terms of which the permit holder will agree to indemnify, defend and hold harmless the Municipality of Skagway from any and all claims for injury or damage to person or property as a result of the permit holders activities.
 - e. Prior to issuance of a permit, the prospective permit holder must provide the Municipality of Skagway with a certification of insurance showing the permit holder has obtained at least one million dollars (\$1,000,000) combined single limit public liability insurance. This certificate must establish that the municipality is named as an additional insured on such policy, and that the insurer thereof shall notify the municipality twenty (20) days before the policy is modified, cancelled, or terminated.
 - f. Permit holders are responsible for compliance with permit conditions. Any person listed on a permit issued shall be deemed to be jointly and severally liable for any violation of this chapter by any person or employee operating under the permit.
 - g. Each permitted operator shall provide on an annual basis following each season, a report to the municipality of the commercial activity of that season. Annual reports shall include all reports of complaints, accidents or incidents, daily volumes, monthly totals, and seasonal totals of activity.
 - h. Permits authorized under this chapter are not transferable, and shall revert back to the municipality in the event of any abandonment or failure to perform.
- C. Prohibited Uses
 1. Commercial activities including tours not permitted, rentals, retail sales or any other uses where compensation is made or offered.
 2. Grazing
 3. Unrestricted road vehicles and ATV access
 4. Camping outside of designated areas without a municipal permit
- D. Campground Provisions
 1. Campers are required to self-register at the established kiosk and to familiarize themselves with burn restrictions and possible animal problems in the area.
 2. Camping shall be limited to a total of 14 days within a 45 consecutive day time frame. Long-term camping is prohibited. For the purposes of this section long-term camping means a duration of more than 14 days within a 45 consecutive day time frame.
 3. Collection of registrations shall be once each week by Public Works employees while picking up the trash.

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- 16.10.030 Permits and Fees.
- A. Permits - The borough manager shall establish a system for the permitting of uses requiring such permits as identified in section 16.10.020(B) above. Permits shall be obtained prior to the conduct of any of the intended uses.
 - B. Fees – The borough assembly shall establish by resolution a schedule of fees when and if such fees are determined necessary.
- 16.10.040 Penalties.
- A. Damage to public property or resources. The permit holder shall be responsible for any damages to any public land, road, trail, facility or natural resources including trees, waters, or wildlife, and shall pay actual costs of remediation of these damages.
 - B. Impact upon the quiet enjoyment of public lands by non-commercial users. Complaints by non-commercial users of public lands filed with the Skagway Police Department against any commercial operator may result in a citation.
 - C. Any violation of this code is a non-criminal infraction, punishable by a civil penalty up to three hundred dollars (\$300) per violation. Each act or violation and every day upon which a violation occurs or continues constitutes a separate offense.
 - D. Grievance Procedure – Any reported violation of this code may result in a correction order issued by the borough manager under SMC 5.01.050. An appeal of such correction order may be filed as provided in SMC 5.01.070, Appeal to borough assembly.

Chapter 16.12
DEWEY LAKES RECREATION AREA MANAGEMENT PLAN

Sections:

- 16.12.010 Statement of intent and goals.
- 16.12.020 Description of area.
- 16.12.030 Allowed/prohibited uses.
- 16.12.040 Permits and fees.
- 16.12.050 Penalties.
- 16.12.010 Statement of intent and goals.
- A. The Municipality of Skagway recognizes that the Dewey Lakes Recreation Area is an area of local, State and regional significance. An area of historic importance and scenic beauty, the Dewey Lakes is valued highly by Skagway residents and visitors for its recreational and scenic values and for the opportunity it provides for nature and wilderness experiences. Public testimony and responses to opinion surveys from the Comprehensive Plan and the Comprehensive Trails Plan consistently indicate overwhelming support for continued public ownership of the area by the Municipality of Skagway and for the protection of its significant natural, scenic and recreational uses and values. It is the Municipality of Skagway's intent to preserve the historic and traditional uses and intrinsic values of the Dewey Lakes Recreational Area and to be a responsible steward of its resources in perpetuity.
 - B. The municipality believes that Skagway residents' traditional uses of the Dewey Lakes Recreational Area for recreation, quiet and solitude is an extremely important local "public use" that should receive full consideration along with State and regional interests in decisions regarding ownership and management of the area.

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- C. It is the municipality's goal to preserve the Dewey Lakes Recreational Area, to maintain its public ownership and to preserve the traditional and historic recreational uses of the area. To this end, the Municipality of Skagway shall implement this Land Management Plan, in cooperation with the State of Alaska, other adjoining property owners and the public.

16.12.020 Description of the area.

All municipal property east of the railroad right of way within Township 28SR59E and Township 28SR60E and Township 27SR60E, Copper River Meridian, except those lands designated Industrial in the 1999 Skagway Comprehensive Plan.

16.12.030 Allowed/prohibited uses.

In order to protect the scenic, ecological and archaeological resources of the Dewey Lakes Recreation Area, the following allowed and prohibited uses are adopted.

- A. Allowed Recreational Uses (non-commercial)
 - 1. Walking, skiing, bicycling, horseback riding.
 - 2. Off leash dog walking.
 - 3. Fishing, hunting & trapping (in compliance with State/Federal Regulations).
 - 4. Plant gathering.
 - 5. Use of off-road all terrain vehicles (ATVs) on designated areas.
 - 6. Campfires in provided campfire rings.
 - 7. Other traditional uses.
- B. Allowed Recreational Uses with Permit:
 - 1. Camping under Municipal Code Section 9.02.050.
 - 2. Rental of Upper Lake Cabins.
 - 3. Research and inventory related to historic and biological resources.
 - 4. Uses of the Dewey Lakes Recreational Area for low impact special events, particularly those that benefit non-profit groups.
- C. Allowed Utility Uses:
 - 1. Watershed and municipal facilities for emergency services water supply.
 - 2. Watershed and facilities for hydroelectric power generation.
 - 3. Access for the above uses.
- D. Prohibited Uses:
 - 1. Commercial activities including tours, rentals, retail sales or any other uses where compensation is made or offered.
 - 2. Use of motor vehicles in undesignated areas.
 - 3. Camping without a municipal permit.
 - 4. Campfires outside of designated areas without a municipal permit.
 - 5. Subdivision and/or sale of public lands.
 - 6. Residential, industrial and commercial structures and other intensive developments.

16.12.040 Permits and fees.

- A. Permits – The borough manager may establish a system for the permitting of uses requiring such permits as identified in Subsection 16.12.030(B)1-4.
- B. Fees – The borough assembly may establish by resolution a schedule of fees when and if such fees are determined necessary.

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16.12.050 Penalties.

Any violation of this code is a non-criminal infraction, punishable by a civil penalty up to three hundred dollars (\$300) per violation. Each act or violation and every day upon which a violation occurs or continues constitutes a separate offense.

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 1st day of March, 2012.

Sam Bass, Mayor

ATTEST:

Steve Burnham Jr., Borough Clerk
(SEAL)

DRAFT