# Title 1

## GENERAL PROVISIONS

Chapters:


1.04 (Reserved)

1.08 Borough Data

1.12 Interpretation and Use of Ordinance Code

1.16 Service Area

1.20 Ordinances -- Resolutions -- Technical Codes

1.24 Penalties

1.28 Borough Business License

# Chapter 1.04

(RESERVED)

# Chapter 1.08

## BOROUGH DATA

Sections:

1.08.010 Name of Borough -- Form of Government.
1.08.020 Borough Limits.
1.08.030 Borough Seal.
1.08.040 Borough Seat.

### 1.08.010 Name of Borough -- Form of Government.

A. The City and Borough of Yakutat shall continue as a municipal corporation under the name: "The City and Borough of Yakutat." Whenever it deems it in the public interest to do so, the Borough may use the name "City and Borough of Yakutat Home Rule Borough", "City of Yakutat", or "Borough of Yakutat", to the extent not inconsistent with law.

B. The government of the Borough shall be that commonly known and designated as the Assembly/Manager form.

### 1.08.020 Borough limits.

The boundaries of the City and Borough of Yakutat are as follows:

Southern tip of Cape Suckling at North 59°59'24" Latitude and West 143°53'36" Longitude North to the ridge line of the Suckling Hills at North 60° 01' 27", Latitude, West 143° 53' 36" Longitude, Northeasterly, along a straight line, to the Northwest corner of protracted T. 16 S., R. 13 E., Copper River Meridian, due East along the protracted township line separating T. 16 S. and T. 15 S., Copper River Meridian, to the northwest corner of T. 16 S., R. 21 E.; thence due south along the protracted township line separating R. 20 E. and R. 21 E., Copper River Meridian, to the southwest corner of T. 16 S., R. 21 E.; thence due east along the protracted township line separating T. 16 S. and T. 17 S., Copper River Meridian, to the northwest corner of T. 17 S., R. 25 E.; thence due south along the protracted township line separating R.24 E. and R.25 E., Copper River Meridian, to the southwest corner of T. 17 S., R. 24 E.; thence due east along the protracted township line separating T. 17 S. and T. 18 S., Copper River Meridian, to the

International Boundary between the United States and Canada on the 141st Meridian, following in a generally Southeasterly direction, the International Boundary of the United States and Canada, to the Peak of the Mt. Fairweather at the International Boundary of the United States and Canada, in T. 35 S., R. 47 E., Copper River Meridian, Southwesterly in a straight line to Cape Fairweather, at North 58° 48' 30" Latitude, West 137° 56' 45" Longitude in T. 36 S. R. 45 E., Copper River Meridian, West along a straight line to a point in the Gulf of Alaska at North 58° 48' 30" Latitude, West 143° 53' 36" Latitude.

With respect to the portion of the City and Borough of Yakutat which extends into the Gulf of Alaska, notwithstanding the foregoing description, the seaward boundaries extend only to the limits of the State of Alaska's jurisdiction under AS 44.030.010.

1.08.030 Borough Seal. The Borough shall have a seal consisting of two concentric circles bearing the words in the outer circle, "City and Borough of Yakutat, Alaska," "September 22, 1992," "Corporate Seal."

1.08.040 Borough Seat. The Borough Seat shall be at Yakutat, Alaska.

# Chapter 1.12

## INTERPRETATION AND USE OF ORDINANCE CODE

Sections:

1.12.010 Definitions.
1.12.020 Grammatical Interpretation.
1.12.030 Ordinances Included in the Code of the City and Borough of Yakutat.
1.12.040 Amendments to Code.
1.12.050 Supplements or Revisions to the Code of the City and Borough of Yakutat.

1.12.010 Definitions. Whenever the following words and terms are used in the Code of the City and Borough of Yakutat, they shall have the meaning herein ascribed to them unless the context clearly indicates otherwise.

A. "Assembly" means the Assembly of the City and Borough of Yakutat, Alaska;

B. "Assessor" means the Borough Assessor;

C. "Attorney" means the Borough Attorney;

D. "Borough" means the City and Borough of Yakutat, Alaska.

E. "Borough officer or employee" means an officer or employee of the Borough, whether paid or unpaid, including members of the Assembly, and members of any board or commission.

F. "Building official" means the Borough building official;

G. "Clerk" means the Borough Clerk;

H. "Clerk-treasurer," whenever the reference is to duties involving money, means the Borough Finance Director;

I. "Clerk-treasurer," whenever the reference is to duties not involving money, means the Borough Clerk;

J. "Code" means the Code of the City and Borough of Yakutat, Alaska;

K. "Computation of time" means the time within which an act is to be done. It shall be computed by excluding the first day and including the last day, and if the last day is Sunday or a legal holiday, that day shall be excluded;

L. "Deputy presiding officer" means the deputy Mayor;

M. "Engineer" means the Borough Engineer;

N. "Finance director" means the Borough Finance Director;

O. "Health officer" means the Borough Health Officer;

P. "Judge" or "magistrate" means the judge of any court of law;

Q. "Law" denotes applicable federal law, the Constitution and Statutes of the State of Alaska, and the ordinances of the Borough;

R. "May" is permissive;

S. "Mayor" means the Borough Mayor;

T. "Month" means a calendar month;

U. "Must", "Shall" and "Will" is mandatory;

V. "Oath" shall be construed to include an affirmation or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed";

W. "Manager" means the Borough Manager;

X. "Ordinance" means a law enacted by the Borough Assembly;

Y. "Owner," applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant or tenant of the entirety, or agent in charge for any of the foregoing, of the whole or a part of such building or land;

Z. "Peace officer" means any officer of the state police, members of the police force of any incorporated city or borough, United States Marshals and their deputies, and other officers whose duty it is to enforce and preserve the public peace;

AA. "Person" means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization or the manager, lessee, agent, servant, officer or employee of any of them;

BB. "Personal property" includes money, goods, chattels, things in action and evidences of debt;

CC. "Presiding officer" means the Mayor;

DD. "Property" means only real property;

EE. "Real property" includes lands, fixtures, and all items commonly associated with real estate;

FF. "Registered mail" includes certified mail. When the use of registered mail is authorized or required by this Code, certified mail may be used unless expressly prohibited.

GG. "Sidewalk" means that portion of a street between the vehicle right-of-way and the adjacent property line intended for the use of pedestrians;

HH. "Signature" or "subscription" includes mark when the person cannot write, with his name written near the mark by a witness who writes his own name near the person's name, but a signature or subscription by mark can be acknowledged or can

serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names thereto;

II. "State" means the State of Alaska;

JJ. "Street" includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, parking areas or other public ways which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of Alaska;

KK. "Tenant" and "occupant," applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others;

LL. "Title of office." Use of the title of any officer, employee, board or commission means that officer, employee, department, board or commission of the Borough;

MM. "Written" includes printed, typewritten, mimeographed or multigraphed;

NN. "Year" means a calendar year.

1.12.020 Grammatical Interpretation. The following grammatical rules shall apply in the Code of the City and Borough of Yakutat and the ordinances of the Borough:

A. Gender. Any gender includes the other gender;

B. Singular and plural. The singular number includes the plural and the plural includes the singular;

C. Tenses. Words used in the present tense include the past and the future tenses and vice versa, unless manifestly inapplicable;

D. Use of words and phrases. Words and phrases not specifically defined shall be construed according to the context and approved usage of the language;

E. All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

1.12.030 Ordinances Included in the Code of the City and Borough of Yakutat. The Assembly, with the advice and assistance of the Borough attorney, shall cause each ordinance and resolution having the force and effect of law to be printed as promptly as possible following its adoption in the following manner:

A. Ordinances enacted by the Assembly of the Borough which are general and permanent in nature shall be inserted in

the Code of the City and Borough of Yakutat when properly prepared and authenticated by the Borough clerk.

B. Emergency, bond, temporary and appropriation ordinances and resolutions shall not be included in the Code of the City and Borough of Yakutat, but shall be retained in the form enacted.

C. All titles to ordinances, all enacting and repealing clauses, all declarations of emergency, and all purpose, validity and construction clauses shall be omitted from the Code unless from their nature it may be necessary to retain them to preserve the full meaning and intent of the ordinance.

1.12.040 Amendments to Code.

A. All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code, may be provided with numbers in accordance with the numbering system of this Code and printed for inclusion herein. In the case of repealed chapters, sections and subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby.

B. Amendments to any of the provisions of this Code shall be made by amending such provision by specific reference to Section number of this Code in the following language: "Section ____ is hereby amended to read as follows: _____".

C. In the event a new section is to be added to this Code by an ordinance, the following language shall be used: "Chapter ____ is hereby amended to add a new section to read as follows:" This new section shall be then set out in full as desired.

D. All sections, articles, chapters or provisions desired to be repealed must be specifically repealed by section, article or chapter number, as the case may be.

1.12.050 Supplements or Revisions to the Code of the City and Borough of Yakutat. The Code of the City and Borough of Yakutat shall be supplemented at regular intervals, or if the Assembly deems that supplementation of the Code is unnecessary, the Code shall be revised and printed every five years.

# Chapter 1.16

## SERVICE AREA

Sections:

1.16.010 Legal Description of Service Area.

1.16.010 Legal Description of Service Area. Certain provisions of this Code, as more fully set forth in the individual Chapters, are applicable only within the boundaries of a specific Service Area located within the Borough, and hereby created. The legal description of that Service Area hereby created is as follows:

Copper River Meridian

T27S R33E
Sections 20,21,24,25,26,27,28,29,32,33,34,35,36

T28S R33E
Sections 1,2,3,11,12,13

T27S R34E
Sections
8,10,15,16,17,18,19,20,21,22,27,28,29,30,31,32,33,34

T28S R34E
Sections 3,4,5,6,7,8,9,10,15,16,17,18

Excluding those portions of the above sections which are not a part of the mainland.

# Chapter 1.20

## ORDINANCES -- RESOLUTIONS -- TECHNICAL CODES

Sections:

1.20.010 Acts of the Assembly.
1.20.020 Ordinance Procedure.
1.20.030 Ordinance Form and Content.
1.20.040 Emergency Ordinances.
1.20.050 Signature.
1.20.060 Ordinances Confined to Single Subject.
1.20.070 Repeal Shall Not Revive Any Ordinances.
1.20.080 Acts by Agents.
1.20.090 Codes of Regulations.
1.20.100 Formal Acts by Resolution.
1.20.110 Resolutions -- Reading -- Hearing -- Final Passage -- Posting.

1.20.010 Acts of the Assembly. The Assembly shall act only by ordinance, resolution, motion or order. Laws of a general, uniform and permanent nature shall be reduced to ordinance; laws of a temporary or special character shall be reduced to resolution. When the Assembly expresses anything by way of command, the form of expression shall be "ordered"; when it expresses opinions, principles, facts or propositions, the form shall be "resolved."

1.20.020 Ordinance Procedure.

A. An ordinance may be introduced only by a member or committee of the Assembly, including the Mayor, or by the Borough Manager at any regular or special meeting of the Assembly. Upon presentation of an ordinance, copies shall be furnished to each Assembly member including the Mayor and the ordinance shall be rejected, deferred, referred to committee, or accepted as being introduced. Promptly after introduction, the Assembly shall set the ordinance for a public hearing and publish notice setting out a summary of the ordinance and the time and place for the public hearing on the ordinance. The public hearing of an ordinance shall follow publication by at least five days; it may be held at a regular or special Assembly meeting and may be adjourned from time to time. At the public hearing, copies of the ordinance shall be distributed to all

persons present who request them or, in the alternative, the ordinance shall be read in full. All interested persons shall have an opportunity to be heard. If the ordinance is amended after the hearing as to any matter of major substance, the ordinance shall be treated as a newly-introduced ordinance. After the hearing, the Assembly shall consider the ordinance and may adopt it with or without amendment. The Assembly shall print and make available copies of adopted ordinances.

B. Ordinances take effect upon adoption or at a later date specified in the ordinance.

C. As used in this section, the term "publish" means that the proposed ordinance summary and notice of hearing shall appear at least once in a newspaper of general circulation distributed within the Borough, or, if there is no newspaper of general circulation distributed within the Borough, posted in three public places for at least five days.

1.20.030 Ordinance Form and Content. All ordinances enacted by the Assembly shall be in substantially the following form:

A. The proposed ordinance shall have a heading and number.

B. Title: A short summary of the ordinance's provisions shall be included in a title at the head of the ordinance. The title shall make reference to any penalties imposed by the ordinance.

C. Enacting clause: The enacting clause shall read: "BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF YAKUTAT, ALASKA:"

D. Substantive part of the ordinance: The provisions of the ordinance will follow the enacting clause.

E. Signatures: Appropriate places shall be provided for the signatures of the Mayor and the clerk.

F. Attestation: The enactment and passage date of the ordinance shall be attested by the clerk.

G. Code section numbers: Ordinances which amend, add to or repeal sections of the Code of the City and Borough of Yakutat shall refer to the Code sections by number.

1.20.040 Emergency Ordinances.

A. To meet a public emergency, the Assembly may adopt an emergency ordinance effective on adoption. Every emergency ordinance must contain a finding by the Assembly that an emergency exists and a statement of the facts upon which the finding is based. The ordinance may be adopted, amended and adopted, or rejected at the meeting at which it is introduced.

The affirmative vote of four members is required for adoption. The Assembly must print and make available copies of adopted emergency ordinances.

B. An emergency ordinance may not be used to levy taxes, to grant, renew, or extend a franchise, or to regulate the rate charged by a public utility for its services.

C. Emergency ordinances are effective for sixty days.

1.20.050 Signature. Each ordinance shall be signed by the mayor at its adoption and attested by the clerk.

1.20.060 An Ordinance Confined to Single Subject. The Borough shall attempt to confine an ordinance to one subject, unless it is an appropriation ordinance or one codifying, revising, or rearranging existing ordinances. Ordinances for appropriations shall be confined to appropriations. The subject of each ordinance shall be expressed in the title.

1.20.070 Repeal Shall Not Revive Any Ordinances. The repeal of an ordinance shall not repeal the repealing clause of such ordinance or revive any ordinance which has been repealed thereby.

1.20.080 Acts by Agents. When an act is required by ordinance and the act may be done as well by an agent as by the principal, such requirement shall be construed as to require and include all such acts performed by an authorized agent.

1.20.090 Codes of Regulation. The Assembly may in a single ordinance adopt or amend by reference provisions of a published Code of Borough Regulations. The regular ordinance procedure applies to an ordinance adopted under this section, except that neither the ordinance nor its amendments need be distributed to the public or read in full at the hearings. For a period of fifteen days before adoption of an ordinance under this section, at least five copies of the code of regulations must be made available for public inspection at a time and place set out in its hearing notice. Only the ordinance need be printed after adoption. The Assembly shall provide for the adopted code of regulations to be made available to the public at no more than cost.

1.20.100 Formal Acts by Resolution.

A. Formal acts by the Assembly not required by law to be enacted by ordinance and not being acts of a general and

permanent nature may be adopted by resolution. A resolution shall have:

1. The heading "City and Borough of Yakutat, Alaska";

2. The space for a number to be assigned -- "Resolution, No. ____";

3. A short and concise title descriptive of its subject and purpose;

4. Short premises or whereas clauses descriptive of the reasons for the resolution, if necessary;

5. The resolving clause -- "Be it Resolved:";

6. Provision for signature after the date, and designated lines for the signatures of the Mayor and clerk; and

7. An attestation.

B. All resolutions adopted by the Assembly, whether at the instance of third parties or the Assembly, shall conform to the requirements set forth in subsection (A).

C. Resolutions shall not be included in the Borough Code.

1.20.110 Resolutions -- Reading -- Hearing -- Final passage -- Posting.

A. Every resolution shall be introduced in writing and shall be orally read before any vote for passage thereof is taken.

B. On any vote for passage of the resolution, all persons interested who appear shall be given a reasonable opportunity to be heard. After such hearing, the Assembly may finally pass such resolution with or without amendments. First reading of any resolution shall be final and no further passage shall be required.

# Chapter 1.24

## PENALTIES

Sections:

1.24.010 General Penalty.
1.24.020 Aiding or Abetting.
1.24.030 Surcharge.
1.24.040 Minor Offense Fine Schedule.

1.24.010 General Penalty.

A. It is unlawful for any person to violate any provision of this Code, or to fail to comply with any mandatory requirement of this Code. Unless another penalty is expressly provided, any person convicted of violating a provision of this Code, or failing to comply with any mandatory requirement of this Code, shall be guilty of a violation and shall be punished by a fine of not more than Three Hundred Dollars ($300). Each act or violation and every day upon which such violation shall occur shall constitute a separate offense.

B. A defendant charged with a violation is not entitled to court-appointed counsel at public expense.

C. The Borough may additionally institute a civil action against any person who violates a provision of this Code, or fails to comply with any mandatory requirement of this Code. In addition to injunctive and compensatory relief, a civil penalty not to exceed $300.00 may be imposed for each such violation or failure to comply. Each day, or part thereof, that a violation or failure to comply continues shall constitute a separate violation.

1.24.020 Aiding or Abetting. The prohibition of any act in the ordinances of the Borough, and in any rule or regulation adopted thereunder, shall include the causing, securing, aiding, or abetting of another person to do such act.

1.24.030 Surcharge. In addition to any penalty prescribed by law, a defendant convicted of violating a Borough ordinance shall pay the surcharge required under AS 12.55.039 and 29.25.074.

1.24.040 Minor Offense Fine Schedule. In accordance with AS 29.25.070(a), citations for the following offenses may be disposed of as provided in AS 12.25.195-.230, without a court

appearance, upon payment of the fine amounts listed below plus the state surcharge required by AS 12.55.039 and AS 29.25.074. Fines shall be paid to the court. The Rules of Minor Offense Procedure in the Alaska Rules of Court apply to all offenses listed below. Citations charging these offenses must meet the requirements of Minor Offense Rule 3. If a person charged with one of these offenses appears in court and is found guilty, the penalty imposed for the offense may not exceed the fine amount for that offense listed below. The fines established in these fine schedules may not be reduced. If an offense is not listed on this fine schedule or another fine schedule, the defendant must appear in court to answer to the charges.

The fine amounts listed below are doubled for motor vehicle or traffic offenses committed in a highway work zone or traffic safety corridor, as those terms are defined in AS 28.90.990 and 13 AAC 40.010(b).

An offense listed in this schedule may not be disposed of without court appearance if the offense is in connection with a motor vehicle accident that results in the death of a person.

| Section Number | Description of Offense | Fine Amount (FOR EACH OFFENSE) |
|---|---|---|
| | | |
| 9.12.010(C) | Deny access to licensed premises by law enforcement officers | $300.00 |
| 9.12.010(J) | Refusal to present identification | $100.00 |
| 9.12.010(R) | Consuming intoxicating liquor in a public place | $100.00 |
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| | | |
| 9.16.010(A)(1) | Consuming marijuana in a public place | $100.00 |
| 9.16.010(A)(2) | Consuming marijuana on property adjacent to a public place without owner consent | $100.00 |
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| 11.12.070 | Unlawful offer for sale/ sale/use/possession of fireworks | $100.00 |
| 11.20.010 | Littering | $ 50.00 |
| 11.20.040 | Polluting water | $100.00 |
| 11.20.060 | Offensive drains | $100.00 |
| 11.28.030(A) | Improper disposal of refuse | $ 50.00 |

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| 11.28.030(B) | Unauthorized burning of refuse | $250.00 |
| 11.28.060(C) | Improper disposal of refuse at borough landfill outside of authorized hours or outside of authorized area | $ 50.00 |
| 11.28.150 | Improper disposal of hazardous waste | $300.00 |
| 11.28.160 | Improper disposal of recyclable materials | $ 50.00 |
| 11.30.010 | Unlawful construction, alteration, maintenance, extension or utilization of water system | $300.00 |
| 11.32.020(B) | Improper deposit of sewage or industrial waste | $300.00 |
| 11.32.020(C) | Unlawful construction or maintenance of sewer system | $300.00 |
| 11.32.030A | Improper use of public sewers | $300.00 |
| 11.32.030F | Improper disturbance of public sewer | $300.00 |
| 11.32.040 | Prohibited discharge into sewer line or system | $300.00 |
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| 12.04.040(A) | Failure to control dog | $ 50.00 |
| 12.04.070(A) | Failure to confine vicious dog | $300.00 |
| 12.04.070(B) | Failure to confine female dog in season | $ 50.00 |
| 12.04.080(A) | Objectionable dog - prolonged barking | $ 50.00 |
| 12.04.080(B) | Objectionable dog - injury to private or public property | $ 50.00 |
| 12.04.080(C) | Objectionable dog - menacing or biting | $100.00 |
| 12.04.090(I) | Failure to surrender dog for quarantine or destruction | $250.00 |
| 12.04.110 | Improper disposal of dead, sick or injured animal | $250.00 |
| 12.04.130 | Interference with official performing duties under Chapter 12.04 | $250.00 |
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| 13.20.020 | Violation of minor curfew | $ 50.00 |
| 13.20.030 | Parent or guardian - violation of minor curfew | $ 50.00 |
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| 15.12.010 | Failure to obtain street or public place permit | $250.00 |
| 15.16.010 | Failure to provide warning devices and barricades | $300.00 |
| 15.16.020 | Damaging warning devices | $300.00 |

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| 15.16.030 | Failure to provide adequate lateral support or fill | $300.00 |
| 15.28.010(A) | Unauthorized curb or sidewalk cut | $250.00 |
| 15.28.010(C) | Unauthorized installation of driveway culvert | $250.00 |
| 15.36.010 | Depositing refuse on streets or sidewalks | $ 50.00 |
| 15.36.040 | Improper drainage | $300.00 |
| 15.36.120 | Improper placement of snow or ice in public way | $ 50.00 |
| 15.44.040(C) | Unauthorized operation of vehicle in public park | $ 50.00 |
| 15.48.050 | Unlawful injury to trees/shrubs in public areas | $300.00 |
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| Borough Boat Harbor (16.04) | | |
| 16.04.080(A) | Improper cleaning or disposal of game or fish | $ 50.00 |
| 16.04.080(B) | Improper storage of property | $ 50.00 |
| 16.04.080(C) | Littering | $ 50.00 |
| 16.04.080(D) | Improper welding or use of open flame | $ 50.00 |
| 16.04.080(E) | Unauthorized moorage | $ 50.00 |
| 16.04.080(F) | Improper moorage of seaplane | $ 50.00 |
| 16.04.080(G) | Unauthorized vehicle on dock or float | $ 50.00 |
| 16.04.080(H) | Improper parking | $ 25.00 |
| 16.04.080(I) | Parking in excess of posted time limitations | $ 25.00 |
| 16.04.080(J) | Unauthorized use of float, moorage or gridiron | $ 50.00 |
| 16.04.080(K) | Obstructing moorage | $ 50.00 |
| 16.04.140 | Speed in harbor | $ 50.00 |
| 16.04.190(A) | Improper disposal of canine waste | $ 50.00 |
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| 18.08.010 | Improper placement of snow or ice on or against a fire hydrant | $ 50.00 |
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| Off-Highway Vehicle Operations | | |
| 18.16.010 | Unauthorized operation of off-highway vehicle on public right of way | $100.00 |
| 18.16.010(B)(1) | Failure to possess Alaska Driver's License | $100.00 |
| 18.16.010(B)(2) | Failure to have head/tail lights on | $100.00 |
| 18.16.010(B)(3) | Nonoperational muffler or tailpipe | $100.00 |
| 18.16.010(B)(4) | Operating during unauthorized hours | $100.00 |
| 18.16.010(B)(5) | Exceeding speed limit | $100.00 |
| 18.16.010(B)(6) | Failure to wear approved safety helmet | $100.00 |
| 18.16.010(B)(7) | Reckless operation of vehicle | $100.00 |
| 18.16.010(B)(8) | Operation under restricted age | $100.00 |

# Chapter 1.28

## BOROUGH BUSINESS LICENSE

Sections:

1.28.005 Definitions.
1.28.010 Business License.
1.28.020 Business License Fee, Term and Renewal.
1.28.030 Penalty for Failure to Obtain.
1.28.040 Failure to File Tax Returns or Pay Tax Due.
1.28.050 Display of Business License.
1.28.060 Nontransfer of License.
1.28.070 Grounds for Suspension or Revocation of License.
1.28.080 Procedure for Suspension or Revocation of License.
1.28.090 Procedures for Nonissuance or Nonrenewal.
1.28.100 Exemptions.
1.28.110 Lien.
1.28.120 Regulations.

1.28.005 Definitions. In this Chapter,

A. "business" means a for profit or nonprofit entity engaging or offering to engage in a trade, a service, a profession, or an activity with the goal of receiving a financial benefit in exchange for the provision of services, or goods or other property.

B. "line of business" means a business category in which one or more related business activities may be conducted under a single business license. For the lines of business and activities applicable to a Borough business license, the Borough adopts the Business Classification System established by the State of Alaska, Department of Community and Economic Development, under 12 AAC 12.990 and the State business license program.

C. "person" or "entity" include an individual, firm, partnership, joint venture, association, corporation, estate trust, business trust, receiver, or any group or combination acting as a unit.

1.28.010 Business License.

A. Prior to the undertaking of business within the Borough, the owner of the business shall apply for and obtain a Borough business license.

B. If a business is already being undertaken within the Borough at the time of enactment of this ordinance, the owner of the business shall apply for and obtain a Borough business license within sixty days of enactment of this ordinance.

C. The application for a Borough business license shall be submitted on a form provided by the Borough and accompanied by a nonrefundable license fee in the amount provided for in CCBY 1.28.020.

D. A separate business license is required for each line of business in which the applicant seeks to engage in the Borough.

1.28.020 Business License Fee, Term and Renewal.

A. A Borough business license is issued for either an annual or a biennial license period. Except as provided in paragraph C below, an annual license expires on December 31st of the year it was purchased, and a biennial license expires on December 31st of the year after it was purchased.

B. The fee for an annual license is $25.00. The fee for a biennial license is $50.00. If an entity is required to have more than one Borough business license under CCBY 1.28.010(D), the fee for each additional license is $20.00 for an annual license and $40.00 for a biennial license.

C. If the Borough issues an initial license on or after November 1, the license period shall consist of the remainder of the calendar year in which the business license is issued and all of the following calendar year, in the case of an annual license, or two calendar years, in the case of a biennial license.

D. Prior to the expiration of a Borough business license, and if the owner intends to continue to conduct business within the Borough, the owner of the business shall apply for and obtain a renewal of that license, on a form provided by the Borough.

1.28.030 Penalty for Failure to Obtain.

A. The undertaking of any business within the Borough without first obtaining the license required under section .010 of this Chapter, or the undertaking of business upon an expired license or a suspended or revoked license, shall constitute a violation of the Code of the City and Borough of Yakutat, and shall be punishable by a fine of not more than $500.00, which may be imposed in addition to injunctive and compensatory relief. Each day that a violation continues constitutes a separate violation.

B. The Borough may request any federal or state agency that issues permits to commercial enterprises within the Borough to revoke said permit.

1.28.040 Failure to File Tax Returns or Pay Tax Due. No license shall be issued or renewed under this Chapter if the business for which the license is sought is delinquent in the filing of returns, or payment of tax due, for Borough sales tax or Borough Transient Accommodation/Vehicle rental tax.

1.28.050 Display of Business License. A license shall be prominently displayed in the premises of the business for which it was obtained, and, upon request, shall be exhibited to the Borough Manager, or his designee. If the business has no fixed place of business, the owner shall carry the license on his person while engaging in the business and shall display that license, upon request, to the Borough Manager, or his designee, or to any person with whom the business is conducted.

1.28.060 Nontransfer of License. A license may not be sold, conveyed or otherwise transferred by the holder thereof to any other person at any time, and any such license purportedly sold, conveyed or otherwise transferred shall be invalid as to the new holder thereof. A successor in interest to any person, entity or business licensed under this Chapter shall make original application for a license if it wishes to continue or resume the licensed business or activity.

1.28.070 Grounds for suspension or revocation of License. The Borough Manager, or his designee, may revoke or suspend a license issued under this Chapter at any time during its term if the licensee fails to timely file tax returns or pay tax due for Borough sales tax and/or Borough Transient Accommodation and Vehicle Rental tax.

1.28.080 Procedure for Suspension or Revocation of Business License. The procedure for suspension or revocation of a license under this Chapter is as follows:

A. The Borough Manager, or his designee, shall give written notice to the owner of a licensed business that the Borough is considering revocation or suspension of the business license. This notice shall be either personally delivered to the owner, or any person operating or employed at the business premises, or sent to the owner via certified mail to the owner's last known address. This notice shall specify the grounds for

the considered revocation or suspension, and generally inform the owner of his right to a hearing and how and when to exercise that right. The notice shall also state that the license may be revoked or suspended without further notice if no demand for hearing is filed.

B. The owner of the business who receives a notice under subsection A above may request the holding of a pre-revocation or suspension hearing, provided that the owner files a written demand with the Borough within twenty days from the date of the notice required under subsection A. Failure of the owner to timely request or to attend a pre-revocation or suspension hearing shall be deemed a waiver of the right to such hearing. If no demand for a hearing is timely filed, and no information is provided to the Borough establishing to the satisfaction of the Borough Manager, or his designee, that the grounds for revocation or suspension have been eliminated or corrected, the Borough Manager, or his designee, may proceed immediately to suspend or revoke the license. Notice of the revocation or suspension shall be sent or delivered to the owner in the same manner as provided in subsection A above.

C. If requested, a hearing shall be conducted before the Borough Manager, or his designee, (hereinafter referred to as the hearing officer) no sooner than five days after receipt of the written demand from the owner. The hearing officer shall conduct the hearing in an informal manner and shall not be bound by technical rules of evidence. The parties may present witnesses and evidence on their behalf, and may cross-examine opposing witnesses on matters relevant to the issue and rebut evidence presented by the other. The sole issue at the hearing shall be whether the Borough has presented sufficient evidence demonstrating grounds for revocation or suspension of the business license under CCBY 1.28.070. At the conclusion of the hearing, the hearing officer shall prepare a written decision. A copy of such decision shall be provided to the owner.

D. Either party may appeal the hearing officer's decision to the Borough Assembly, by filing a notice of appeal with the Borough Clerk within ten days of the date of the hearing officer's decision. The procedures for such an appeal shall be established by the Assembly.

E. At any time prior to revocation or suspension of the business license, the owner may submit evidence to the Borough that the grounds for revocation or suspension have been eliminated or corrected, and request that the proceedings on revocation or suspension be closed.

1.28.090 Procedures for Nonissuance or Nonrenewal. If the Borough is considering denying an application for a business license, or renewal thereof, it shall provide notice to the applicant of such considered denial. The provisions of 1.28.080 shall govern the notice requirements, and hearing and appeal rights, for such matters.

1.28.100 Exemptions. The following are exempt from the requirements of this Chapter:

A. A person engaged in the activity of commercial fisheries and required to obtain a commercial fishing license under A.S. 16.05.480;

B. A person who performs casual babysitting services. This does not exempt any person, regardless of their age, who is operating a day care service or facility;

C. A person supplying services as a bona fide employee for wages subject to federal income tax withholding; and

D. A person who makes only "casual sales" of goods or services, as that term is defined in CCBY 6.40.030(B).

1.28.110 Lien. Any unpaid business license fee, and/or any penalties imposed under this Chapter, shall constitute a lien in favor of the Borough upon all of the real and personal property of the person(s) or entity(ies) owing the fee and/or penalties. The lien also includes any administrative costs, including attorney fees and litigation costs, incurred by the Borough to bring a business into compliance with this Chapter and fees paid to the District Recorder for recording the lien and any necessary fees for recording a lien satisfaction. The lien arises immediately upon the undertaking of business within the Borough without a Borough business license, and continues until the liability is satisfied or the lien is foreclosed. A notice of lien may be filed in the office of the recorder for the Juneau Recording District. The Borough may also, at its discretion, file a notice of lien in any other recording district.

1.28.120 Regulations. The Mayor shall from time to time cause to be promulgated regulations necessary and advisable to provide for the application and enforcement of this Chapter and to submit them to the Assembly for adoption or rejection.