

We, the undersigned residents of Petersburg and duly qualified voters of the Borough, request the following ordinance be placed before the voters on the next General or Special Election Ballot.

AN ORDINANCE TO AMEND PETERSBURG MUNICIPAL CODE TO ALLOW FOR THE OPERATION AND USE OF OFF-HIGHWAY VEHICLES ON BOROUGH-OWNED AND MAINTAINED STREETS, HIGHWAYS, OR WAYS OPEN TO THE PUBLIC AND LOCATED WITHIN THE JURISDICTION OF THE PETERSBURG BOROUGH

WHEREAS, current municipal code does not allow for the operation and use of off-highway vehicles on roads within the jurisdiction of the Petersburg Borough.

THEREFORE THE PEOPLE OF PETERSBURG BOROUGH ORDAINS as follows:

Section 1. Classification: This ordinance is of a permanent nature and, if approved by the electors, shall be codified in the Petersburg Borough Code.

Section 2. Purpose: The purpose of this ordinance is to submit to the voters of the Petersburg Borough the question of whether the Petersburg Borough should amend Borough Code to allow for the operation and use of off-highway vehicles (OHV) as long as operators and equipment conform with the provisions set forth in this ordinance. This ordinance only allows for the operation of OHVs on Borough-owned and maintained streets within the jurisdiction of the Petersburg Borough.

Section 3. Substantive Provisions: Amending the Petersburg Borough Code as follows: to amend paragraphs A-E of section 11.12.020 to add references to off-highway vehicles; to add a new paragraph L to section 11.12.020, permitting off highway vehicle usage on borough-owned and maintained roads and imposing conditions on such usage; to add a new section 11.30 requiring registration of off highway vehicles when used on Mitkof Island; and to impose fines for violations of the conditions on such usage, under section 1.16.030. The language proposed for addition to the Code is in **bold and underlined**:

I. Amended Section: 11.12.020 Miscellaneous operating rules.

- A. *Drivers must be licensed.* It is unlawful for a person to operate a motor vehicle **or off-highway vehicle (OHV)**, or exercise any degree of physical control of a motor vehicle **or OHV**, upon a street, highway or way open to the public within the borough, without having, in his or her possession, a valid driver's license.
- B. *Driving while license is canceled, suspended, revoked, or in violation of a limitation.* It is unlawful for a person to drive a motor vehicle **or OHV**, upon a street, highway, or way open to the public within the borough at a time when that person's driver's license has been canceled, suspended or revoked, or in violation of a limitation placed upon that person's license.
- C. *Permitting unauthorized person to drive.* It is unlawful for a person to authorize or knowingly permit a motor vehicle **or OHV** owned by the person, to be driven upon a street, highway or way open to the public within the borough who is not validly licensed.
- D. *Reckless driving.* It is unlawful for a person to drive a motor vehicle **or OHV** in the borough in a manner that creates a substantial unjustifiable risk of harm to a person or property. A substantial and unjustifiable risk is a risk of such a nature and degree that the conscious disregard of it or a failure to perceive it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation.

- E. Negligent driving. It is unlawful for a person to drive a motor vehicle or OHV in the borough in a manner that creates an unjustifiable risk of harm to a person or to property and who, as a result of the creation of the risk, actually endangers a person or property. An unjustifiable risk is a risk of such a nature and degree that a failure to avoid it constitutes a deviation from the standard of care that a reasonable person would observe in the situation.

[There are no amendments to paragraphs F – K]

- L. Off-Highway Vehicles (OHVs). Pursuant to the authority granted in 13 AAC 02.455(a)(3), and in addition to the circumstances set out in paragraphs (a)(1)-(2), (4), (6) and (c), off highway vehicles may be driven on a roadway or shoulder of a borough-owned and maintained highway in accordance with the following restrictions:

1. It is unlawful to operate a vehicle supported in part by skis, including vehicles commonly referred to as snowmobiles, on a street, highway, or way open to the public and located within the Petersburg Borough;
2. No person shall operate an OHV faster than the posted speed limit;
3. OHVs may be driven only on the extreme right-hand side of the roadway and in the same direction as the roadway motor traffic. OHVs are prohibited from impeding traffic and they are required to pull over at the next available turnout to allow traffic to pass if two or more vehicles are immediately behind them;
4. OHVs, except two wheeled vehicles, must be equipped with a fluorescent orange or pink flag measuring at least four inches by ten inches, mounted on the rear of the off-highway vehicle at a height no less than six feet from the ground;
5. No person under the age of 18 shall drive, or be a passenger on, an OHV without a DOT approved helmet. OHVs equipped with a full roll cage are exempt from requiring helmets if they are equipped with other passenger restraints such as seat belts;
6. Passenger restraints in OHVs must be used at all times by the operator and all passengers when the vehicle is in motion;
7. OHVs are not permitted to pass other moving vehicles on the roadway traveling in the same direction;
8. All wheels of the OHV must remain in contact with the ground at all times;
9. All OHV operators, except those with a motorcycle license, shall carry a certificate of completion of a Borough approved ATV safety course. The online course from the ATV Safety Institute (atvsafety.org) meets the requirements of this provision. Other off-highway vehicle safety courses may be approved by resolution of the Borough Assembly;
10. All OHV drivers shall carry proof of liability insurance, covering use and operation of the OHV, with limits equal to or greater than the minimum requirements for operating a normal passenger vehicle in the State of Alaska;

11. Persons operating OHVs must comply with all other motor vehicle laws of the State of Alaska and any other applicable Petersburg municipal codes.

12. OHV use is prohibited on Private, State, and Federal land without permission from the owner or responsible authority. OHV use is prohibited on Mitkof Highway, South Nordic Drive, and Haugen Drive.

II. New Section: 11.30 OFF HIGHWAY VEHICLE REGISTRATION

11.30.010 Registration requirements.

- A. Registration is required for all off-highway vehicles to be operated on Mitkof Island. Registration is not required for OHV use in other parts of the borough.
- B. A registration sticker shall be affixed to a prominent location on the exterior of the OHV.
- C. One registration sticker is required for each OHV operated on Mitkof Island.
- D. Petersburg Borough shall administer OHV registrations. The Petersburg Borough shall verify proof of insurance and compliance with State of Alaska registration laws at the time of registration.
- E. The Petersburg Borough shall charge \$100 for each two year OHV registration sticker.

III. Amended Section: 1.16.030 Fine Schedule

1.16.030 Fine schedule

The following fines are added:

Section Number	Description of Violation/Traffic Infraction	Fine Amount
Vehicles		
<u>11.12.020 L3</u>	<u>Operation of OHV on roadway impeding traffic with an OHV</u>	<u>\$40.00</u>
<u>11.12.020 L4</u>	<u>Operating an OHV without a flag</u>	<u>\$25.00</u>

<u>11.12.020 L5</u>	<u>Minor operating or riding as a passenger on OHV without required helmet</u>	<u>\$25.00</u>
<u>11.12.020 L6</u>	<u>Failure to use passenger restraints</u>	<u>\$25.00</u>
<u>11.12.020 L7</u>	<u>Passing another vehicle with an OHV</u>	<u>\$40.00</u>
<u>11.12.020 L9</u>	<u>Failure to carry proof of completion of an ATV safety course</u>	<u>\$10.00</u>
<u>11.12.020 L10</u>	<u>Driving an OHV without proof of insurance</u>	<u>\$500.00</u>
<u>11.30.010</u>	<u>Operating an unregistered OHV</u>	<u>\$35.00</u>

Section 4. Severability: If any provision of this ordinance or any application to any person or circumstance is held invalid, the remainder of the ordinance and application to any person and circumstances shall not be affected.

Section 5. Effective Date: This ordinance, if approved by the voters, shall become effective on 11/21/2017 subject to the certification of the municipal election results.

Date of Issuance of Initiative Petition: May 4, 2017, by the Clerk for the Petersburg Borough. All signatures on this petition shall be secured and submitted to the Borough Clerk within 90 days from the date of issuance.

Debra K. Thompson
Debra K. Thompson, Borough Clerk