

Petersburg Borough, ALASKA
ORDINANCE NO. ??-??

AN ORDINANCE OF THE PETERSBURG BOROUGH, ALASKA AMENDING TITLE 9, HEALTH AND SAFETY, TO LIMIT THE APPLICATION OF RESTRICTED HERBICIDES AND PESTICIDES FOR THE PURPOSE OF VEGETATIVE MAINTENANCE, AND NEONICOTINOIDS, ONTO LANDS WITHIN THE BOROUGH OF PETERSBURG-- THAT TO PROTECT THE BOROUGH'S QUALITY OF LIFE, AND THE HEALTH OF ITS CITIZENS, ANIMALS, ECOSYSTEMS, AND WATERSHED.

WHEREAS, the Petersburg Borough is concerned about the use of pesticides and herbicides and the risk that pesticides and herbicides may pose to the community and natural environment; and

WHEREAS, pesticides and herbicides have been linked to various forms of cancer, child developmental disorders, and endocrine disruption; and

WHEREAS, pesticides and herbicides cannot be necessarily confined to a single location but move through the environment in the air, land and water and may have an impact on non-target species and plants; and

WHEREAS, the municipality wishes to limit all potential applications, drift, and runoff of pesticides or herbicides into the waters, tributaries, and lands in the Borough at this time in order to maintain water quality for consumption and other domestic purposes by residents of the Borough; and

WHEREAS, the municipality wishes to limit all potential applications, drift, and runoff of pesticides or herbicides onto forested, wildlife, aquatic areas within the Borough in order to protect environment, marine and fresh water organisms, wildlife, and habitat(s); and

WHEREAS, alternatives to the application of pesticides and herbicides exist. The Petersburg Borough, in a letter to ADOT&PF dated July 19, 2013, declared their support for the use of mechanical methods of vegetation maintenance that include mowing, brush cutting, hydro-axing, and burning in the Petersburg Borough; and

WHEREAS, chemical control methods (pesticide or herbicide) have the potential to create super weeds that exhibit a resistance to pesticides or herbicides, or could bioaccumulate in living organisms; and

WHEREAS, the Precautionary Principle supports local governments anticipating and preventing threats of harm to the environment;

THEREFORE THE PETERSBURG BOROUGH ORDAINES, Chapter 9.06 of the municipal code is hereby approved and adopted as a borough ordinance to be administered on an areawide (borough-wide) basis.

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the Petersburg Borough Municipal Code.

Section 2. Purpose. The purpose of this ordinance is to amend Title 9, Health and Safety, by adding Chapter 9.06 Pesticides and Herbicides, to protect public health and safety, quality of life, water quality, subsistence food sources, natural surroundings, local ecosystem, and the watershed, by limiting most point source and non-point source applications of restricted herbicides for the purpose of vegetative maintenance, and prohibiting neonicotinoids and persistent herbicides, onto private and municipal lands within the boundaries of the borough.

Section 3. Amendment. The Petersburg Borough Municipal Code is hereby amended; Title 9 Health and Safety is hereby amended to include Chapter 9.06, to be applied on an area-wide basis, to read as follows:

PESTICIDES AND HERBICIDES

Sections:

<u>9.06.010</u>	<u>Definitions.</u>
<u>9.06.020</u>	<u>Applicability.</u>
<u>9.06.030</u>	<u>Prohibited.</u>
<u>9.06.040</u>	<u>Powers and authority for inspection.</u>
<u>9.06.050</u>	<u>Waiver process.</u>
<u>9.06.060</u>	<u>Penalty.</u>

9.06.010 Definitions.

1. "application" means the placement for effect of any pesticide or herbicide at or on the site where pest control or other response is desired.
2. "creek" means a stream, brook, or minor tributary of a river within the Petersburg Borough.
3. "drainage ditch" means a channel in the ground, typically used for drainage alongside a road, trail, or edge of a field.
4. "drift" means to be carried slowly by a current of air or water.
5. "fertilizer" means a chemical or natural substance added to soil or land to increase its fertility.
6. "forest" means a large area covered chiefly with trees and undergrowth.
7. "herbicide" means a pesticide designed to control or kill plants, weeds, or grasses.
8. "infest" or "infestation" means that (insects or animals) be present (in a place or site) in large numbers, typically so as to cause damage or disease.
9. "lakes" means a considerable inland body of standing water within the Petersburg Borough, inlet (filled) or outlet (emptied) by creeks or streams.
10. "neonicotinoid" means a class of neuro-active insecticides chemically related to nicotine.
11. "non-target species" means any organism for which the pesticide was not intended to control.
12. "non-point source" means a source of pollution that comes from many diffuse sources. Non-point source pollution is caused by rainfall or snowmelt moving over and through the ground. As the runoff moves, it picks up and carries away natural and human-made pollutants, finally depositing them into lakes, rivers, wetlands, coastal waters and ground waters.
13. "organism" means any living being, whether plant, mammal, bird, insect, amphibian, reptile, fish, crustacean, aquatic or estuarine animal, or bacterium.

14. "pesticide," for the purpose of this ordinance, means substances intended to repel, kill, or control any species designated a "pest" including plants, weeds, insects or other organisms. The family of pesticides includes herbicides and insecticides. This includes any fertilizer mixture which contains insecticides or herbicides within it.
15. "plant" means a living organism of the kind exemplified by trees, shrubs, herbs, grasses, ferns, and mosses, typically growing in a permanent site, absorbing water and inorganic substances through its roots, and synthesizing nutrients in its leaves by photosynthesis using the green pigment chlorophyll. Does not include algae or fungi.
16. "point source" means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill, leachate collection system, vessel or other floating craft from which pollutants are or may be discharged.
17. "poison" means a substance that, when introduced into or absorbed by a living organism, causes death or injury.
18. "pollutant" means a substance that pollutes something. For the purposes of this ordinance, pesticides and herbicides may be considered pollutants.
19. "residence" means a person's home; the place where someone lives.
20. "resident" means a person who lives somewhere permanently or on a long-term basis.
21. "right-of-way" means the right to build and operate a, road, or utility on land belonging to another. The land on which a, road, highway, or utility is built.
22. "runoff" means the draining away of water (or substances carried in it) from the surface of an area of land, a building or structure, etc.
23. "spray" or "spraying" means to treat (a plant or area) with pesticide or herbicide that can be forced out of a can or other container.
24. "stream" means a small, narrow river.
25. "Tributary" means a stream of water feeding a larger stream or a lake.
26. "Vegetative maintenance" means to remove trees, shrubs, herbs, grasses, ferns, moss or weeds from an outdoor environment. Does not include the removal of mosses or mildews from buildings or vehicles.
27. "Weeds" means a plant growing where it is not wanted.

9.06.020 Applicability.

This ordinance is applicable to all lands within the boundaries of the Petersburg Borough

9.06.030 Prohibited

1. No person, private company, or other entity under any circumstance, shall use neonicotinoid products, or products containing neonicotinoid active ingredients, or any restricted herbicides that are identified as "persistent" by the U.S. Composting Council. Neonicotinoids and persistent herbicides shall not be approved for use by the waiver process.
2. Use of defoliants, chemicals or compounds that kill brush or trees by means of removing their foliage.
3. There shall be no application of restricted herbicides for the purpose of vegetative maintenance, or poisons within three-hundred (300) linear feet of any drainage ditches, tributaries, lakes, streams, or rivers.

4. There shall be no water-based or aerial spraying of pesticides or herbicides. .
5. No drift, runoff or application of any pesticide, herbicide, or fertilizer shall be permitted onto any adjacent land or property of another.
6. The use of pesticide and herbicide products in any manner on the grounds of the Petersburg Schools is prohibited except in the case of insect infestation(s). Pesticide shall only be used as a last resort when dealing with insect infestation problems, and shall not be used as a preventive measure.
7. Municipality agents or employees shall not use restricted or persistent herbicides for vegetative maintenance, or neonicotinoids, in the performance of their duties. The municipality may, in accordance with the waiver process, and under extreme circumstances, contract a licensed pesticide applicator to perform restricted herbicide application.

9.06.040 Powers and authority for inspection.

The borough will have the authority to inspect chemical applications for the purpose of compliance with this ordinance.

9.06.050 Waiver process.

A. Waivers must be approved by the Assembly in an open meeting, allowing for public testimony, in a format as designated by the Mayor. All waivers must be approved more than 10 days prior to the application to allow for adequate time for the public to comment.

B. Persons granted a waiver for application of a restricted herbicide must post a written notice readable and visible from the public right-of-way at the point closest to the area of application, providing information including the type of chemical being applied, the volume, the dates of application, and description of the application site(s). The property owner or tenant shall maintain the notice beginning at least one (1) day in advance of application and for at least two (2) days following application.

9.06.060 - Violation—Penalty.

- A. A person who violates a provision of this chapter shall be guilty of a violation, and shall be subject to a fine as provided in Chapter 1.16 of the borough code.
- B. A person who violates a provision of this chapter is also liable for all costs and expenses incurred by the borough in the clean up and remedy of the violation, and administrative costs and attorney fees incurred by the borough as a result of the violation.

Chapter 1.16 General Penalty and Interest Rate

The Fine Schedule in Section 1.16.030 of the Municipal Code is amended to include the following fine

For Chapter 9.06, any violation

\$1,000.00

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 the Petersburg Borough Assembly this____ day of _____, 2015.

Mark Jensen, Mayor

ATTEST:

Kathy O'Rear, Borough Clerk

(SEAL)