

**PETERSBURG BOROUGH  
ORDINANCE #2016-03**

**AN ORDINANCE PROVIDING FOR CHAPTER 7.04, DOGS**

**Whereas**, on January 3, 2013 the Election Division for the State of Alaska certified the election results of the December 18, 2012 incorporation election for the Petersburg Borough, and

**Whereas**, the certified election confirmed the incorporation of the Petersburg Borough and dissolved the City of Petersburg, and

**Whereas**, Petersburg Borough Charter, Section 19.06 requires all ordinances, resolutions, regulations, orders and rules in effect for the former City of Petersburg to continue in full force and effect within the Petersburg Borough, Service Area 1, until expressly reaffirmed, revised or repealed by the assembly.

**Therefore the Petersburg Borough Ordains**, Chapter 7.04, as set out below, is hereby adopted as a borough ordinance to be administered in Service Area 1 only.

**Section 1. Classification:** This ordinance is of a permanent nature and shall be codified in the Petersburg Borough Code.

**Section 2. Purpose:** The purpose of this ordinance is to regulate the keeping of dogs within Service Area 1 of the Petersburg Borough.

**Section 3. Substantive Provisions:** Chapter 7.04, entitled Dogs, is added to the borough code to read as follows:

Chapter 7.04 - DOGS\*

Sections:

- 7.04.010 - Purpose.
- 7.04.020 - Definitions.
- 7.04.030 - Annual license required.
- 7.04.040 - Term of license.
- 7.04.050 - License fee.
- 7.04.060 - Dog collar—Size and shape of license.
- 7.04.070 - Change of ownership fee.
- 7.04.080 - Vaccination.
- 7.04.090 - Control of dogs.
- 7.04.100 - Sanitary disposal requirements.
- 7.04.110 - Impoundment.
- 7.04.120 - Impound fees.
- 7.04.130 - Redeeming impounded dogs.
- 7.04.140 - Reporting, examination and care of biting and diseased dogs.
- ~~7.04.150 - Reporting a dangerous or vicious dog.~~
- 7.04.150 - Dangerous or vicious dog.
- 7.04.160 - Dogs disturbing peace and quiet.

7.04.170 - Penalty for violation.

7.04.180 – Interference with Animal Control Officer

7.04.190 – Immunity.

7.04.010 - Purpose.

This chapter is enacted for the purpose of regulating the keeping of dogs within the city ~~Service Area~~ **1**. This chapter or any section thereof shall not restrict or interfere with a member or members of federal, state or local law enforcement agencies using trained dogs in the performance of their sworn duties.

7.04.020 - Definitions.

As used in this chapter:

"Animal control officer" means any person or persons designated by the responsible authority, or by ~~ordinance of the city~~ **borough ordinance**, to issue licenses, pick up, detain, impound, sell, dispose of, give notice for any other acts, duties or functions prescribed by this chapter or other ordinances relating to dogs.

"Animal welfare organization" means any humane society or similar animal welfare agency which has been approved by the animal control officer as appropriate for delivering impounded dogs, under such regulations and guidelines as may be established by the responsible borough authority.

"At large" means a dog which is off of the premises, property of the owner or other authorized person having responsibility for the dog, and not under the physical control of such person whether by leash or other physical restraint. A dog within an automobile or other vehicle of its owner or other responsible person shall be deemed to be upon such person's premises or property. Verbal command does not constitute being under control or restraint.

"Barking dog" means any dog which by frequent or habitual howling, yelping or barking causes an audible annoyance, disturbs the peace and quiet of any neighborhood, or disturbs persons other than the owner or keeper, while in the vicinity of the premises or property of such dog, or upon a public street or place.

"Complaint" includes any communication with the Petersburg police department, including anonymous communications, which identifies a dog in violation of any provision of this chapter.

"Dangerous dog" is any dog that when unprovoked approaches a person in a clearly threatening manner and causes fear of imminent ~~serious~~ injury; or when unprovoked, attacks and ~~seriously~~ injures another domestic animal. It is an **affirmative** defense if the dog is defending its owner's person, family or property from criminal acts such as assault, burglary or trespass to a building or vehicle. It is also an **affirmative** defense if a dog was on its owner's property when it attacked a dog that had aggressively entered that property. It is also an **affirmative** defense if a person is bitten inadvertently while separating dogs that are fighting.

"Dog" includes all canines (scientific name: canis familiaris).

"Harboring." The occupant of any premises or property on which a dog customarily returns daily for food and care is presumed to be harboring or keeping the dog within the meaning of this chapter.

**"Injury" means a physical pain or an impairment of physical condition.**

"Kennel" includes any place where three or more dogs are confined for breeding, the offspring thereof are sold for profit or where dogs are received for care, boarding or training.

"Leash" includes a cord, strap, rope or chain ~~not more than six feet in length and~~ of sufficient strength so as it cannot separate, and by which a dog is restrained and controlled by the person accompanying it.

"License" means a dog license issued by the ~~city~~ **borough**.

"Nuisance" means any dog which causes an annoyance to a person or persons other than the owner or keeper of such dog, and whereby such annoyance is a violation of the provisions of this title.

"Owner" or "keeper" means any person or entity owning, keeping, customarily caring for, or harboring a dog. This includes any adult member of a family or group of persons sharing a residential unit where another member of the family or group owns, keeps, possesses or harbors a dog, but does not include a person who voluntarily undertakes the temporary care of an abandoned dog or dog at large.

"Pound" means a place provided and operated by the ~~city~~ **borough**, or by an independent person or entity or other agency under the authority of the ~~city~~ **borough**, acting alone or in concert with other municipalities, for the restraint, confinement and care of dogs.

"Responsible borough authority" means the ~~city~~ **borough** manager or the manager's designee and the chief of police or chief of police's designee. When exercising any power granted to them by this title, the responsible authority shall be subject to any motion, resolution or ordinance relating thereto and passed by the ~~city council~~ **borough assembly**.

"Restraint" or "under restraint" means a dog is confined within the property limits of its owner or keeper by a suitable fence or securely affixed to a fixed object within the property.

"Serious physical injury" is any physical injury that causes serious and protracted impairment of health, protracted loss or impairment of the function of a body member or organ, or that unlawfully terminates a pregnancy.

**"Service dog" means:**

- (1) An animal specifically trained ~~certified~~ and utilized to assist in search and rescue operations;
- (2) An animal specifically trained ~~certified~~ and utilized to assist a person with disabilities; or
- (3) An animal specifically trained ~~certified~~ and utilized to assist in law enforcement activities, also referred to in this title as a 'trained police dog'.

"Sterilized animal" means any male or female dog that has been properly neutered or spayed by a licensed veterinarian.

"Trained police dog" means any dog which has received specialized training and is assigned to the Petersburg police department ~~or other recognized law enforcement agency~~.

"Undeveloped areas of the ~~city~~ **borough**" means any area within the ~~city limits~~ **Service Area 1** undeveloped by residential, commercial or industrial development and beyond twenty-five feet from streets, highways, roads or trails.

"Veterinary hospital" means any establishment maintained and operated by a licensed veterinarian for the diagnosis, treatment and care of diseased or injured animals.

"Vicious dog" is any dog when unprovoked that bites or attacks a person causing injury, or that when unprovoked aggressively attacks a person, causing fear of imminent serious physical injury and the injury to the person is only avoided through significant defensive measures by that person or others to prevent the dog from inflicting injury. Any dog when unprovoked that attacks a person and causes serious physical injury, regardless of the state of mind of the victim at the time of the attack, is considered vicious. It is an **affirmative** defense if the dog was defending its owner's person, family, or property from criminal acts such as assault, burglary or trespass to a building or vehicle. It is also an **affirmative** defense if a person is bitten inadvertently while separating dogs that are fighting.

#### 7.04.030 - Annual license required.

- A. The animal control officer shall be responsible for the registering of all dogs as to sex, breed, sterilization, name of the dog, name of the owner and the address of the owner; upon proper registration, the officer shall issue a dog license to the owner.
- B. It is unlawful for any owner or other person to own, keep or harbor any dog within ~~the city~~ **Service Area 1** which is six months of age or older, for a period of more than fifteen days, without having: (1)

registered the aforesaid dog and obtained a dog license from the city borough; and (2) caused the dog license tag to be securely attached to a collar which is to be securely fitted to the dog's neck and retained thereto at all times. For the purpose of this chapter, the age of six months shall be determined by either a veterinarian's certification stating the dog's age, or by the presence of the dog's permanent canine teeth.

#### 7.04.040 - Term of license.

- . All dog licenses issued shall be prorated by dividing the year into quarterly periods, and the cost of such licensing will be in accordance with that quarterly period of the year in which the license was procured. The license shall be in effect for a period from the date of such licensing to the end of the then current calendar year and for a period of twenty days after the end of such year.

#### 7.04.050 - License fee.

The fee payable for the licensing of any sterilized male or female dog shall be ten dollars. The fee payable for the licensing of any un-sterilized male or female dog shall be twenty-five dollars. No dog shall be licensed as sterilized unless a certificate is exhibited to the animal control officer which is signed by a licensed veterinarian and certified that such dog has been sterilized. Such fee shall be payable annually.

#### 7.04.060 - Dog collar—Size and shape of license.

Each licensed dog shall be provided by the owner or keeper, with a collar or harness which shall be worn by the dog at all times. To such a collar or harness shall be securely affixed a license tag provided by the borough for the current year.

- ~~B. It is unlawful for any person other than the owner, his agent or responsible authority for the city to remove the license tag from the dog.~~

#### 7.04.070 - Change of ownership fee.

Whenever the ownership of a currently licensed dog shall change, the new owner shall notify the animal control officer, whereupon such dog's registration record shall be changed accordingly and the previously issued license for such dog shall remain valid for the remainder of the current year.

#### 7.04.080 - Vaccination.

No license shall be granted for a dog six months of age or older which has not been vaccinated against rabies. Certification of vaccination must be presented prior to licensing. As a public health service, the animal control officer, after approval by the Alaska Board of Veterinarian Medical Examiners, may provide rabies vaccinations in the event a licensed veterinarian is not available. Fees charged for such vaccinations shall be in accordance with the fee schedules and standards as set forth by the Alaska Board of Veterinarian Medical Examiners; and any revenue derived there from shall go directly to maintain, improve and support the city's borough's pound facility.

#### 7.04.090 - Control of dogs.

It is unlawful for the owner or keeper:

- A. To permit a dog to run at large upon any public street, sidewalk or other public place or private property within city Service Area 1, other than the premises or property of the owner or keeper; when a dog is in such a public area or non-owner/keeper private property, a dog must be leashed and in the physical custody and control of a person physically able to restrain and control such dog. The owner or keeper may permit a dog to run without a leash in undeveloped areas of the city Service Area 1 where the dog will not be a danger, threat or nuisance to other persons, animals or property and the owner is in control of the dog;

- B. To permit a dog to be upon public school grounds during school hours, unless permission is given by a responsible authority for the school;
- ~~C. To permit a dog in public parks except on a leash, and such dog shall be subject to all applicable rules and regulations or ordinances regulating the use of parks;~~
- ~~D~~C. To permit a dog, **other than a service dog**, to enter any food store, restaurant or place where food is stored, prepared, served or sold to the public, or any other public buildings (except for animal shows or other exhibition purposes, veterinary hospitals, kennels or places for which a responsible authority has issued a permit);
- ~~E~~D. To own, harbor or keep under their control or care a vicious dog within the **city borough** limits;
- ~~F~~E. To permit a dangerous dog out of a kennel or the owner's or keeper's house unless it is securely muzzled and leashed and in the physical custody and control of a person physically able to restrain and control the dog;
- ~~G. To own or keep under their control a dangerous dog in a kennel that does not have secure walls, a locking gate and pad and is capable of keeping the dog in and small children from releasing the dog;~~
- ~~H~~F. To own, harbor or keep under their control a dangerous dog without having conspicuously posted an easily read "Beware of Dangerous Dog" sign, in letters three inches tall or taller, at the primary entrance to their property.

#### 7.04.100 - Sanitary disposal requirements.

Except in undeveloped areas within the **city Service Area 1**, it shall be unlawful for an owner or keeper to not immediately remove all fecal matter deposited by the owner's or keeper's dog on public or private property, other than the owner's or keeper's property.

#### 7.04.110 - Impoundment.

- A. The animal control officer may impound, apprehend or detain any dog when a violation of any of the provisions of this chapter is occurring or has occurred. Impounded dogs shall be taken to the borough dog pound; it shall be the duty of the animal control officer to maintain the dog pound in a clean and orderly condition at all times so as to protect the impounded dogs from the elements, and the dogs shall be regularly fed and watered. The animal control officer is empowered to apprehend, impound and quarantine any unvaccinated dog that has bitten a person or other animal.
- B. Immediately after impounding any dog, the animal control officer shall enter upon a formal record the date of impoundment, a description of the dog impounded, its license number, if any, and record if whether such dog has been licensed.
- C. The animal control officer shall post a public notice of the impounding of such dog which shall contain a description of the dog and the date and time of such impounding. One copy of such notice shall be posted on the bulletin board in the police department.
- D. Any dog which is unlicensed, shall be held by the borough for twenty-four hours after the posting of the impound notice. Thereafter, if not redeemed by the owner or keeper, the animal control officer shall immediately thereafter, at the discretion of the officer, deliver said dog to an approved animal welfare organization for all future care and/or adoption, or cause such dog to be destroyed.
- E. If a dog has been impounded which is currently licensed, the animal control officer shall, in addition to posting a public notice immediately execute a reasonable attempt to notify the registered owner or keeper of such dog. Any dog which is licensed shall be held by the borough for forty-eight hours after the posting of the impound notice. Thereafter, if not redeemed by the owner or keeper, the animal control officer shall immediately thereafter, at the discretion of the officer, deliver said dog to an approved animal welfare organization for all future care and/or adoption or cause such dog to be destroyed.

- F. To discourage the abandonment of dogs so as to avoid payment for impound fees, licensing fees and fines for violations of the provisions of this chapter, any owner or keeper of a dog which has been impounded is personally responsible for payment of the aforesaid fees and fines, even if such dog is subsequently destroyed or delivered to an approved animal welfare organization.

#### 7.04.120 - Impound fees.

Any person desiring to redeem an impounded animal as provided in this chapter shall pay fees according to the following: an impound fee of \$50.00, plus an additional \$10.00 per day for care and feeding.

- A. ~~An impound fee of forty-five dollars for the first offense for an unlicensed, un-neutered animal. Twenty-five dollars of the impound fee shall apply towards the licensing of the animal;~~
- B. ~~An impound fee of thirty dollars for the first offense for an unlicensed, neutered animal. Ten dollars of the impound fee shall apply towards the licensing of the animal;~~
- C. ~~An impound fee of twenty dollars for the first offense for a properly licensed animal;~~
- D. ~~An impound fee of fifty dollars for the second offense for a properly licensed or an unlicensed animal;~~
- E. ~~An impound fee of one hundred dollars for the third and any subsequent offenses for a properly licensed or an unlicensed animal;~~
- F. ~~In addition, the cost of care and feeding of such animal at five dollars per day.~~

#### 7.04.130 - Redeeming impounded dogs.

Except as otherwise provided in section .150, any dog impounded under the provisions of this title which has not been delivered to an approved animal welfare organization or destroyed may be redeemed and released to the owner or keeper upon the payment of all impound fees, license fees and fines levied against the owner or keeper of such dog or charged by reason of the impoundment thereof. All such payment sums shall be paid to the police department and thereupon the animal control officer shall release such dog and thereby issue a receipt disclosing payment of all such fees and fines.

#### 7.04.140 - Reporting, examination and care of biting and diseased dogs.

- A. The owner or keeper of a dog who has bitten a person or other animal, or the owner or keeper of a dog suspected of having rabies, shall report the dog to the animal control officer or police department as soon as possible following the dog bite or suspected onset of the disease. Such dog shall be confined by the animal control officer for fourteen days or placed in the continuous care of a veterinarian. Release shall only be by the animal control officer. It shall be unlawful for an owner or keeper who is confining a dog under this section under the direction of the animal control officer, to release the dog without the consent of the animal control officer.

~~If an owner or keeper, who is confining a dog under subsection A of this section, releases the dog without the consent of the animal control officer, the owner or keeper shall be summoned to appear in court and sentenced to pay a fine not to exceed five hundred dollars.~~

- B. In the event of the death of such dog, the cadaver shall be immediately brought to the police department and then, at the direction of the chief of police, sent to the state of Alaska for examination.

#### ~~7.04.150 - Reporting a dangerous or vicious dog.~~

~~A person observing a dog acting in a dangerous or vicious manner while running at large, provided that the dog's dangerous or vicious actions were not brought about by deliberate harassment or provocation, shall immediately contact the police department.~~

#### 7.04.150 - Dangerous or vicious dog.

- A. The animal control officer, or other responsible borough authority, shall have the authority to determine, based upon probable cause, whether a dog meets the definition of a dangerous or vicious dog. The determination shall be made within fifteen days of impound or report, whichever last occurs, and shall be based upon the following factors: the observed and reported past and present behavior of the dog; the circumstances of the incident observed or reported; the extent of any injury sustained by any person or other animal; and any past history of compliance or noncompliance by the owner or keeper, regardless of whether it involves the same or a different dog. Notice of the determination of the officer or authority, and the grounds for and result of such determination, shall be made in writing, and delivered to the person listed on a licensed dog's registration form as the owner or keeper of the dog, by certified mail or personal delivery, at the address provided at the time of registration. The notice to the owner or keeper shall also advise the owner or keeper of the right and time to appeal that determination. The notice shall be deemed served on the owner or keeper on the date of personal service, or three days following deposit of the notice into the US Mail, postage prepaid, by certified mail, regardless of whether the mailing is ever claimed.
- B. The person listed on a licensed dog's registration form as the owner or keeper of the dog may appeal the determination made under paragraph A above to the borough public safety advisory board, by filing a notice of appeal with the borough clerk, on a form provided by the clerk, within fifteen days after service of the determination. The right to appeal shall be deemed waived if an appeal is not properly and timely filed. If the borough public safety advisory board is unable to duly convene within the time frame called for in this section, the borough assembly shall hear the appeal and otherwise fulfill the duties of the borough public safety advisory board hereunder.
- C. The borough public safety advisory board shall hold a hearing on an appeal not less than 10 days from the filing of the notice of appeal, and coordinated with the board's next scheduled meeting. The hearing shall be informal, and technical rules of evidence shall not apply. The licensed dog's owner or keeper shall be entitled to present evidence and testimony regarding the determination of the officer or authority. The borough shall be represented at the hearing by the officer or authority who made the determination, who may present evidence and testimony regarding the determination. The board may also request the assistance or opinion of a local veterinarian or animal welfare organization. The board shall issue a written decision within five days of the hearing, and the written decision shall be delivered to the owner or keeper in the same manner as set out in paragraph A above. The board's decision shall be considered final.
- E. If a dog is determined to constitute a dangerous dog, the owner or keeper may be required, by either the animal control officer or the board, to 1) obtain and maintain a liability insurance policy or surety bond in an amount not less than \$100,000 covering any damage or injury that may be caused by the dangerous dog. Proof of such insurance or bonding shall be delivered to the animal control officer at the time of issuance, and upon renewal, and the policy shall contain a provision providing 30 days notice of cancellation of the policy or bond to the animal control officer or responsible borough authority; and/or 2) cause the dog to be spayed or neutered, at the owner's or keeper's expense. Any subsequent change of ownership or place of habitat of a dog previously determined to constitute a dangerous dog must be reported to the animal control officer or responsible borough authority prior to the change in ownership, and any new owner or keeper is required to comply with any previous conditions imposed by the borough. The owner or keeper of a dog previously determined to be dangerous may request a subsequent reclassification of the dog, to be considered at the discretion of the animal control officer or other responsible borough authority.
- D. Dogs believed to be dangerous or vicious may be impounded during any period of determination or appeal. Upon the approval of the animal control officer, the dog may also be confined at the owner's or keeper's property, upon conditions satisfactory to the officer. After a final determination that a dog constitutes a vicious dog, the dog may be destroyed by the borough unless arrangements satisfactory to the borough are made by the owner or keeper to safely and permanently remove the dog from Service Area 1 immediately upon release from impound. After a final determination that a dog constitutes a dangerous dog, the dog may be destroyed by the borough if the owner fails to

establish, implement and maintain adequate safety and confinement measures for the dog, satisfactory to the borough.

- E. If after investigation by the animal control officer, a dog is unlicensed, or the owner or keeper of a vicious or dangerous dog cannot be identified, the dog can be immediately destroyed.
- F. Unless otherwise ordered by a Court, a vicious or dangerous dog will not be delivered to an animal welfare organization.
- G. Any requirement of this chapter for attempting to locate a dog owner does not prohibit a police officer from ~~shooting~~ **destroying** a vicious or dangerous dog when the officer reasonably feels that people may be in danger of injury by the dog unless immediate action is taken.

#### 7.04.160 - Dogs disturbing peace and quiet.

It is unlawful for an owner or keeper to maintain within ~~city~~ **Service Area 1** **any barking dog**. The animal control officer shall first issue a warning to the owner or keeper of the barking dog. If, after the warning, the problem persists or a further, similar complaint is received, the dog may be impounded. Any member of the public may file a complaint with the police department regarding a barking dog.

~~In the event a complaint is filed with the police department charging that a dog is disturbing the peace and quiet of another person or persons while within the confines of the private property of such dog's owner or keeper, then the animal control officer shall issue a warning and direct the owner or keeper of such dog to abate the nuisance immediately. Should such dog continue to be a nuisance and a complaint is again filed with the police department, then the owner or keeper of such dog shall be issued an offense citation.~~

- ~~C. In the event a complaint is filed charging that a dog is disturbing the peace and quiet as provided in subsections A and B of this section, and the police department is unable to contact the owner or keeper of the dog to remedy the nuisance, the police department may impound the dog according to Section 7.04.110.~~

#### 7.04.170 - Penalty for violation.

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. **Any citation for a violation relating to a dangerous or vicious dog shall require a mandatory court appearance.**

~~A. In the event a complaint is filed for violation of any provision of this chapter, the complaint is considered to be filed against the owner or keeper of a dog.~~

~~B. Penalty for non-dangerous or non-vicious dog violations of this chapter shall be:~~

~~First offense: \$10.00~~

~~Second offense: \$25.00~~

~~Third offense: \$75.00~~

~~Fourth and subsequent:~~

~~Offenses: \$150.00~~

~~C. Penalty for dangerous dog violations of this chapter shall be:~~

~~First offense: \$50.00~~

~~Second offense \$100.00~~

~~Third offense: Dog impounded and owner charged \$500.00.~~

~~If owner is convicted, the police department will request a court order for the dog to be destroyed.~~

~~D. Penalty for vicious dog violations of this chapter shall be:~~

~~Dog impounded and owner charged \$500.00.~~

~~If owner is convicted, the police department will request a court order for the dog to be destroyed.~~

#### 7.04.180 – Interference with Animal Control Officer

It is unlawful for any person to oppose, obstruct or interfere with any animal control officer or other borough employee acting under the provisions of this chapter.

#### 7.04.190 – Immunity.

The provisions of this chapter involve discretionary functions, licensing, permits, approvals, inspection, discovery, abatement, health and safety and other matters as referred to in AS 09.65.070, and determining, or failing to find or determine that a domestic animal is, or potentially is, dangerous or vicious, or the manner of enforcement or nonenforcement of the provisions of this title, shall not constitute an assumption by the Borough, or by any of its officers, employees, or agents, of any duty, or be deemed or construed to impose any duty, responsibility or liability on the Borough or any of its officers, employees, or agents regarding such actions or nonactions.

**Section 4. Severability:** If any provision of this ordinance or any application 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.

**Section 5. Effective Date:** This Ordinance shall become effective in Service Area 1 immediately upon final passage.

Passed and approved by the Petersburg Borough Assembly, Petersburg, Alaska this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Mark Jensen, Mayor

ATTEST:

\_\_\_\_\_  
Debra K. Thompson, Clerk

Adopted:  
Noticed:  
Effective: