

**PETERSBURG BOROUGH
ORDINANCE #2013-13**

**AN ORDINANCE PROVIDING FOR TITLE 1 OF THE MUNICIPAL CODE, UPDATING CURRENT
LANGUAGE TO REFLECT BOROUGH INCORPORATION; AND
ADDRESSING CIVIL PENALTIES VERSUS FINES**

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 continue in full force and effect within the Petersburg Borough, Service Area 1, until expressly reaffirmed, revised or repealed by the assembly.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, the existing provisions for Title 1, General Provisions, as noted with amendments below, are hereby approved and adopted as a borough ordinance to be administered on an areawide basis.

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 update Code language to reflect borough incorporation.

Section 3. Substantive Provisions: The provisions of the former City of Petersburg (now Service Area 1) Municipal Code, Title 1 are hereby transferred and incorporated into this borough ordinance, and shall read as follows. Chapter and section numbers from the prior city code are retained for future referencing and codification of the Borough Code.

Chapter 1.04 - GENERAL PROVISIONS

1.04.010 - Validity of code.

This borough code, as presented in printed or electronic form, shall hereafter be received without further proof in all courts and in all administrative tribunals of this state as the ordinances of the borough of general and permanent effect.

1.04.020 - Construction of words

In this Code, unless the context clearly indicates otherwise, (1) words used in the singular include the plural and those in the plural include the singular, and (2) words of one gender include the other. These rules of construction shall not be applied to any section of this code which contains any express provision excluding such construction or where the subject matter or context may be repugnant thereto.

1.04.030 - Definitions.

Whenever the following words or terms are used in this code, they shall have the meaning ascribed to them in this section unless the content makes such meaning repugnant thereto:

- A. "Agent" means a person acting on behalf of another.
 - B. "Borough" means the Petersburg Borough.
 - C. "Code," unless otherwise specifically stated, means this Petersburg Municipal Code.
 - D. "Employees": Whenever reference is made in this code to a borough employee by title only, this shall be construed as though followed by the words "of the Petersburg Borough."
 - E. "Fee" means a sum of money charged by the borough for the carrying on of a business, profession or occupation.
 - F. "Knowingly" imports only a knowledge that the facts exist which brings the act or omission within the provisions of this code. It does not require any knowledge of the unlawfulness of such act or omission.
 - G. "License" means the permission granted for the carrying on of a business, profession or occupation.
 - H. "Misdemeanor" means an offense deemed a violation of the provisions of this code, but only when the ordinance setting out the violation so states, which is a lesser offense than a felony as defined by state law.
 - I. "Negligent," as well as "neglect," "negligence" and "negligently," imports a want of such attention to the nature or probable consequences of the act or omission as a prudent person ordinarily bestows in acting in his or her own concert.
 - J. "Occupant," applied to a building or land, includes any person who occupies the whole or any part of such building or land whether alone or with others.
 - K. "Offense" means any act forbidden by any provision of this code or the omission of any act required by the provisions of this code.
 - L. "Officers": Whenever reference is made in this code to a borough "officer" by title only, this shall be construed as though followed by the words "of the Petersburg Borough."
 - M. "Operator" means the person who is in charge of any operation, business or profession.
 - N. "Owner," applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant or lessee of the whole or of a part of such building or land.
 - O. "Person" includes any natural person or business entity, singular or plural.
 - P. "Personal property" includes every description of money, goods, chattels, effects, evidence of rights in action and all written instruments by which any pecuniary obligation, right or title to property is created, acknowledged, transferred, increased, defeated, discharged or diminished and every right or interest therein.
 - Q. "Retailer," unless otherwise specifically defined, relates to the sale of goods, merchandise, articles or things in small quantities directly to the consumer.
-

R. "Street" includes alleys, lanes, courts, boulevards, public ways, public squares, public places and sidewalks.

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

T. "Violation" refers to an act taken which is forbidden by any provision of this code, or the omission or failure to act when so required by any provision of this code, and which is punishable by imposition of a fine or civil penalty.

U. "Wholesaler" and "wholesale dealer," unless otherwise specifically defined, relate to the sale of goods, merchandise, articles or things in quantity to persons who purchase for the purpose of resale.

V. "Willfully," when applied to the intent with which an act is done or omitted, implies simply a purpose or willingness to commit the act or make the omission referred to. It does not require any intent to violate law, or to injure another, or to acquire an advantage.

Chapter 1.08 - BOROUGH SEAL

1.08.010 - Seal described.

The official borough seal shall be circular in form and shall be two inches in diameter. In the center of the field thereof shall appear the representation of six vessels of varying sizes in docking berths, with the words "Incorporated January 3, 2013" directly below the vessels. The words "Petersburg Borough" are to appear on the field of the seal above the representation and the words "State of Alaska" are to appear on the field of the seal below the representation, with a braided line encircling the words and representation.

1.08.020 - Custody of seal.

The official corporate seal of the borough shall be and remain in the sole custody and keeping of the borough clerk and shall never be affixed to or upon any document or other paper of any kind or character except under the express authority and direction given by the borough assembly.

Chapter 1.12 - ORDINANCES

1.12.010 - Acts which must be by ordinance.

Formal acts of the borough assembly intended to regulate any of the affairs of the borough which are of a general and permanent nature, may be enacted by ordinance. Acts of the borough assembly which shall be by ordinance:

- A. Establish, alter or abolish any borough department;
- B. Fix the wages and benefits of members of the assembly;
- C. Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- D. Provide for the levying of taxes;
- E. Grant, renew or extend a franchise;

- F. Establish the rates charged by borough utilities;
- G. Adopt, modify or reject the comprehensive plan, land use or subdivision regulations, building and housing codes and the official zoning map;
- H. Adopt or amend an administrative code;
- I. Authorize the borrowing of money;
- J. Establish procedures for the acquisition, conveyance, disposition or lease of real property of the borough;
- K. Propose amendments to the borough charter;
- L. Adopt, with or without amendment, ordinances proposed under initiative powers;
- M. Amend or repeal any ordinance previously adopted except as otherwise provided in Article 6 of the borough charter with respect to repeal of ordinances reconsidered under the referendum power;
- N. Establish a formal procedure for acquisition from the state of land or rights in land and disposal of those lands or rights in land;
- O. Authorize any contract, other than a contract for the purchase, sale, conveyance, disposition or lease of property, which by its terms will not be fully executed within five years and which cannot be terminated by the borough upon not more than one-month's notice without penalty;
- P. Establish service areas;
- Q. Make appropriations and supplemental appropriations; and
- R. Such additional acts of the borough assembly as are required by law to be done by ordinance.

1.12.020 - Emergency ordinances.

An emergency ordinance is an ordinance which in the judgment of the borough assembly is necessary for the immediate preservation of the public peace, health or safety and must become effective prior to the time when an ordinance of nonemergency nature would become effective. An emergency ordinance may be considered at a regular meeting or at a special meeting called for that specific purpose.

- A. Every such ordinance shall contain as a part of its title the words "and declaring an emergency."
- B. A separate section, called the emergency section, shall declare the nature and existence of the emergency, containing a specific finding of emergency based on a statement of facts.
- C. An emergency ordinance may be adopted, amended and adopted, or rejected at the meeting at which it is introduced. The affirmative vote of four members of the assembly is required for adoption of an emergency ordinance.

D. An emergency ordinance shall be a permanent municipal enactment not requiring subsequent consistent nonemergency legislation. An emergency ordinance is repealed by resolution or automatically expires in sixty days.

E. An emergency ordinance shall 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.

1.12.030 - Preparation.

All ordinances, except ordinances initiated by electors of the borough under provisions of the borough charter, shall be prepared in writing and/or reviewed by the borough attorney. No ordinance shall be prepared for presentation to the borough assembly unless requested by an assembly member or the borough manager. Sufficient duplicate copies of each ordinance to be presented shall be prepared for the mayor, each assembly member, the borough clerk, the borough manager, and sufficient copies for distribution to the public at such meeting.

1.12.040 - Procedure for passage.

Ordinances shall be considered in the first reading at a regular meeting except emergency ordinances may be considered at a special meeting called for that specific purpose. Prior to the passage of any ordinance, a public hearing shall be held and the ordinance shall be read and advanced at three separate meetings of the borough assembly.

A. All readings of an ordinance may be by title only, except that any member of the assembly may request that an ordinance be read in full at any reading. No ordinance except an emergency ordinance may be finally passed on the same day that it is introduced.

B. No separate motion shall be entertained for entering an ordinance into the first, second or third reading.

1.12.050 - Voting of borough assembly.

A. Four or more affirmative votes are required on any assembly action.

B. The mayor has no power of veto.

C. No member of the assembly may participate in any official action in which the assembly member or any member of the assembly member's household has a substantial financial interest unless after disclosure of the interest the member's participation is approved in a public meeting by the majority of the assembly. Otherwise, each member of the assembly present shall vote on each question before the assembly.

D. If a question is raised under this section at any assembly meeting, such question shall be determined before the main question shall be voted on, but the assembly members affected may not vote on such determination.

1.12.060 – Publication and posting.

Within fifteen days after adoption, each ordinance shall be 1) published in a newspaper of general circulation within the borough, 2) posted at the municipal office, the U.S. Post Office, the borough harbor office and at the Papkes Landing area, and 3) provided to appropriate officials at the City of Kupreanof for public posting within the City. Publication and posting shall be in full or by number and title with a brief summary of its purpose. Failure to publish and post an ordinance upon

adoption as provided for herein does not affect validity of the ordinance, which shall be considered to be in full force and effect.

from taking full force and effect.

1.12.070 - Effective date.

Emergency ordinances and ordinances making, repealing, transferring or otherwise changing appropriations shall go into effect immediately upon final passage unless they specify a later time. All other ordinances shall go into effect as each specifies.

1.12.080 - Numbering of ordinances.

All ordinances shall be numbered in the order of their passage. The title of each ordinance shall be designated to express the subject, object or purpose of the ordinance.

1.12.090 - Form of ordinances.

A. All ordinances to be eligible for consideration shall be in the following form and contain and conform to the following requirements:

1. Heading. "Petersburg Borough."
2. Number. "Ordinance No. _____."
3. Title. A descriptive title, including reference to penalties if imposed by the ordinance.
4. Premises. "Whereas" clauses as and if necessary to describe the reasons for the proposed ordinance.
5. Enacting Clause. The enacting clause of all ordinances passed by the borough assembly shall be: "THE PETERSBURG BOROUGH ORDAINS" and all ordinances proposed by the voters under their power of initiative "THE PEOPLE OF THE PETERSBURG BOROUGH ORDAIN."
6. Classification. Section 1 of each ordinance shall classify the contents of the ordinance as between those of a general and permanent nature intended to be filed as a part of the borough code, and contents of a less permanent or less general interest not intended as a part of the code.

If of a permanent nature the section shall read:

"Sec. 1. This ordinance is of a permanent nature and shall be codified in the Petersburg Borough Code.

Ordinances authorizing the conveyance of property, salary ordinances, appropriation ordinances, and for the annual levy of general taxes are examples of ordinances of a temporary nature.

B. Ordinances shall contain sections substantially conforming with the following sequence:

1. Classification (code or noncode);

2. Purpose and intent or declaration of emergency (optional);
3. Substantive provisions;
4. Penalty clause (if any);
5. Repealer (if applicable);
6. Severability clause;
7. Effective date.

C. To the extent practicable, the practice of having an ordaining page adopting annexed sections by attachment shall be avoided.

D. Paper. All ordinances shall be submitted on clear white paper eight and one-half inches by eleven inches.

E. Margins. One inch on all sides, except that the top and bottom margins may be less if the reduction results in related content being kept together on one page.

F. Type or Printing. All ordinances shall be submitted in black type and printed single spaced in a manner and form suitable for duplication and permanent filing.

G. Date and Signatures. Appropriate places at the bottom of the last page shall be provided for insertion of the date of adoption and the signatures of the mayor and borough clerk.

1.12.100 - Form of noncode ordinances.

A. Ordinances of less than general and permanent nature and not intended to become a part of the code shall conform to the requirements of subsections (A)(1) through (A)(6) and D through G of subsection 1.12.090.

B. Section 1 shall classify the contents as noncode. Subsequent sections shall contain the appropriate text and provision for date of passage and signature.

1.12.120 - Adoption by reference.

A. The borough assembly, by ordinance, may adopt by reference, codes, standards and regulations, and amendments thereto, relating to building, plumbing, electrical installation, and other matters which it has power to regulate otherwise.

B. Such codes, standards or regulations need not be enrolled in the book of ordinances, but a copy of such adopted codes, standards or regulations shall be filed and kept in the pertinent borough office for public use, inspection and examination, and for sale at their approximate cost, so long as they remain in force.

C. The borough may not adopt penalties by reference.

1.12.130 - Repeal of ordinances.

Ordinances and parts of ordinances shall be specifically repealed by ordinance number or by section if only amended or partially repealed.

Chapter 1.13 – RESOLUTIONS

1.13.010 - Permanent file.

The borough assembly shall provide for the maintenance of a permanent file of resolutions that have been adopted.

1.13.020 - Acts which must be by resolution.

A. Formal acts by the borough assembly not required by law to be enacted by ordinance and not being acts of a general and permanent nature which should become part of the code may be adopted by resolution.

B. Acts which must be enacted by resolution are:

1. Making transfer appropriations to the municipal budget; and
2. Such other acts as are required by ordinance to be by resolution.

1.13.030 - Form of resolution.

A resolution shall be in substantially the following form:

- A. A space provided for the number assigned to the resolution at the top center of the first page;
- B. A short, concise title descriptive of the subject and purpose;
- C. Short premises or clauses descriptive of the reasons for the resolution, if necessary;
- D. A resolve clause to be read: Be It Resolved by the Borough Assembly of the Petersburg Borough; and
- E. Provision for the signatures of the mayor and borough clerk and for the date of adoption by the borough assembly.

Chapter 1.16 - GENERAL PENALTY AND INTEREST RATE

1.16.010 – Violation -- Penalty

A. Any person who violates a provision of the Municipal Charter, the borough code, or any ordinance or regulation of the borough shall be guilty of a violation. Except in cases where a different punishment is prescribed, a person found guilty of a violation is, punishable by imposition of a fine not to exceed one thousand dollars for each separate violation or, for continuing violations, for each day that violation continues, plus any surcharge required to be imposed by AS 12.55.039; or, if the ordinance specifically provides, shall be guilty of a misdemeanor punishable by a fine not to exceed one thousand dollars or imprisonment for not more than thirty days, or by both such fine and imprisonment.

B. In addition to any penalty prescribed by law, a person found guilty of violating a borough ordinance shall pay any surcharge required under AS 12.55.039 and AS 29.25.074.

1.16.020 - Interest rate.

Any amount owed to the borough is delinquent if not paid when due. Except when otherwise provided by law or specifically provided by ordinance, resolution or written agreement, interest at the maximum legal rate allowed by state law shall accrue upon all delinquent fees, charges and assessments owed the borough, from the due date until paid in full.

Chapter 1.17- CLAIMS AGAINST THE BOROUGH

No claim may be made against the borough for refunds, payments collected in error, or other monetary claims for funds or services unless, within twelve months of the occurrence of such error or payment, written notice is given to the borough manager by the person damaged, or that person's representative, stating the nature of the claim and the amount of the claim.

Chapter 1.18 - RECORDS MANAGEMENT

1.18.010 - Definitions.

A. "Records means any papers, files, books, accounts, writings and other items, regardless of format or physical characteristics, developed or received by the borough under law or in connection with the transaction of borough business and preserved or appropriate for preservation as evidence of the organization, function, policies, decisions, procedures, operations or activities of the borough or because of their informational value. "Records" does not include:

1. Records disposable upon the occurrence of an event;
2. Reference or transitory files.

B. "Records disposable on occurrence of an event" means records which become of no further use to the municipality upon the occurrence of a certain event, such as completion of a job, audit, project, contract or the like.

C. "Reference or transitory files" means copies of notes, feeder notes and similar working papers accumulated in preparation of a communication, study or other writing or record.

1.18.020 - Records management officer.

Each borough department head or department head designee shall be the records management officer for that department. The records management officer shall administer the records management program and perform the duties set forth in this chapter.

1.18.030 - Records retention schedule.

A. Each department shall prepare a records retention schedule, stating for each type of record produced by the department:

1. The duration for which the department will retain the record for the transaction of current business;

2. The duration after which the record will have no further legal, administrative, fiscal or historical value, and may be destroyed.

B. Each department shall update its records retention schedule at reasonable intervals.

C. The records retention schedules submitted shall be compiled in accordance with subsection A of section 1.18.040 into a master records management schedule.

1.18.040 - Records management manual.

A. There shall be a master records management manual, approved by the assembly, and maintained in the office of the borough clerk. The master records management manual shall provide for the retention, preservation and disposal of records for all departments in accordance with this chapter.

B. Each department shall manage its records as outlined in the aforementioned manual as it pertains to their department.

1.18.050 - Disposal of records and other material.

A. Departments shall retain and dispose of records in accordance with the records management manual.

B. A department may dispose of reference or transitory files, and records disposable upon the occurrence of an event, at the department's discretion when they no longer are required for the transaction of municipal business.

C. Records of a confidential nature shall be disposed of by shredding or burning. All other records shall be disposed of in an appropriate manner.

1.18.060 - Copies of record.

Records not otherwise required by law to be preserved in original form, and records that are worn or damaged, may be copied by any process which produces a clear, accurate and permanent copy. When such a copy is retained in accordance with this chapter, the original may be destroyed. The copy shall be considered as the original record for all purposes.

1.18.070 - Custody and ownership of records.

A. All records are the property of the municipality unless otherwise provided for by law.

B. At the end of the term of office or employment of a borough official or employee, that person shall deliver all records in his or her custody or control to the appropriate supervisor or successor.

C. The records management officer may initiate actions to recover records unlawfully removed from municipal possession.

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 immediately upon final passage.

Passed and approved by the Petersburg Borough Assembly, Petersburg, Alaska this _____day of _____, 2013.

Mark Jensen, Mayor

ATTEST:

Kathy O'Rear, Clerk

Adopted:
Published:
Effective: