

**PETERSBURG BOROUGH
ORDINANCE #2020-19**

**AN ORDINANCE AMENDING BOROUGH CODE CHAPTER 3.72 TO PROVIDE FOR
CIVIL EMERGENCY PROVISIONS**

WHEREAS, the recent COVID-19 emergency has demonstrated that it is vital that the Borough be able to respond quickly and efficiently to evolving public emergencies; and

WHEREAS, the civil emergency provisions in the municipal code have not been updated in a number of years, and do not specifically address issues like the current pandemic and have not been updated to reflect borough formation.

THEREFORE, THE PETERSBURG BOROUGH ORDAINS, Chapter 3.72 of the Petersburg Municipal Code, is hereby amended as follows:

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 provide for civil emergency provisions.

Section 3. Substantive Provisions: Chapter 3.72 of the Petersburg Borough Municipal Code shall be amended to read as follows (the language proposed for insertion is in bold and underlined; the language proposed for deletion is in brackets and struck through):

Chapter 3.72 - CIVIL EMERGENCY PREPAREDNESS AND EMERGENCY SERVICES

3.72.005 - Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

"Alcoholic beverage" has the meaning ascribed to it in PMC 6.04.010.

"Borough manager" means the borough manager of the Petersburg Borough, or the manager's designee.

"Civil Emergency" means a "Disaster" as defined in Alaska Statute 26.23.900.

"Curfew" means a prohibition against vehicular and/or pedestrian traffic upon any public property, street, alley, sidewalk, thoroughfare, vehicle parking area or vacant premises within the borough or a designated geographical area within the borough, as those terms are defined in this Code.

"Incident Commander" means the borough manager, or the person designated by the borough manager to serve in that capacity under PMC 3.72.020.

3.72.010 - Intent and purpose.

It is the intent and purpose of this chapter to provide for the efficient utilization of the borough's [city's] personnel, facilities and equipment in the event of a civil emergency, including without limitation natural or man-made disasters[, pandemics] and disasters resulting from enemy actions, and to provide for the coordination of disaster and emergency service functions of the borough [city] with all other public agencies and affected private persons, corporations and organizations.

3.72.020 - Civil [E]emergency preparedness and emergency services office established.

The borough [city] manager's office is the civil emergency preparedness and emergency services office and thereby the coordinating agency for all activity in connection with emergency services and other disaster operations. The borough [city] manager or the manager's designee, as incident commander, shall exercise the authority and discharge the responsibilities vested in him/her by applicable local, state and federal law. The assembly may review and disapprove of the borough manager's appointment of a designee as incident commander.

3.72.030 - Emergency response.

The borough disaster response [~~city-emergency-preparedness~~] plan, and any amendments thereto, is adopted by reference into this Code. The borough [city] manager shall, in the event of civil emergency, respond and provide services as provided in the borough disaster response [~~city-emergency-preparedness~~] plan.

3.72.040 - Authority to issue emergency proclamation.

Pursuant to the authority granted hereunder and in Alaska Statute 26.23.140, whenever the borough manager determines that a civil emergency exists, he or she may declare by proclamation the existence of the emergency. Any proclamation issued pursuant to this Chapter shall have the force of law and shall supersede any conflicting provision of borough law during an emergency declared pursuant to this Chapter.

A declaration issued hereunder by the manager is effective for a period of seven days, unless ratified, modified or earlier terminated by assembly motion. A declaration may be terminated by either the borough manager or the assembly upon a determination that an emergency no longer exists. If the assembly modifies or terminates the declaration, said modification or termination shall be prospective only, and shall not affect any actions taken prior to the modification or termination of the declaration.

3.72.050 - Dissemination and posting of emergency proclamation.

The proclamation of an emergency declaration, or any emergency order issued pursuant thereto, shall be posted on the borough website and at such other places in the borough as may be directed in the proclamation. It shall also be provided to any newspapers of general circulation published in the borough and any radio stations which broadcast within the densely populated areas of the borough.

3.72.060 - Imposition of orders during period of emergency.

A. Upon declaration of a civil emergency under Section .040, the borough manager, the incident commander, and the assembly are each authorized to issue any or all of the following orders within the borough, effective immediately or as specified in the order, as deemed necessary to preserve the public health, safety and order of the borough. Orders issued shall terminate on their expiration date, except that orders issued by the borough manager or incident commander may be terminated by the assembly or subsequent order of the manager or commander:

1. ~~With assembly approval, l~~impose a curfew when it is determined necessary to protect and safeguard the people and property of the borough. The order instituting the curfew shall include the dates, hours, and the geographical areas of the borough, or the borough as a whole, that the curfew will be in effect. Physicians, nurses and emergency medical personnel performing essential medical services, utility personnel maintaining essential public services, authorized members of the borough police and fire departments, members of the news media upon showing of authorized press cards, and authorized borough and other governmental personnel may be exempted from such curfew.

2. ~~With assembly approval, O~~order the following to close and remain closed until further order for the period of the emergency:

a. Any or all bars, breweries, restaurants, private clubs or other establishments serving food or beverages, including without limitation alcoholic beverages.

b. Any or all entertainment facilities, including without limitation, theaters, gyms, fitness centers, bowling alleys and bingo halls.

c. Any or all other business establishments.

3. ~~With assembly approval, P~~rohibit gatherings of persons in excess of a specified number.

4. ~~With assembly approval, C~~all up regular and auxiliary law enforcement agencies and organizations within or without the borough to assist in preserving and keeping the peace within the borough.

5. Order the evacuation of persons from any designated area.

6. Suspend purchasing and contracting procedures for the procurement of supplies and services deemed necessary and in the public interest to address the civil emergency, in accordance with PMC 4.04.020C and PMC 4.04.040B.

7. Cancel any nonessential meeting of any board or commission of the Borough.

8. Issue such other orders reasonably immediately necessary to address the civil emergency and for the protection of life and property.

B. An order issued pursuant to this section shall contain the following:

1. A statement of the **known** facts upon which the order is based;

2. A statement that the borough manager, incident commander, or assembly, as applicable, believes it is in the best interest of public safety and health, and the protection of property, that the exercise of certain rights be temporarily limited; and

3. A statement that the conditions of the order are designed to provide the least necessary restriction on those rights.

C. Any order issued under this section shall supersede any inconsistent or conflicting borough ordinance or regulation.

D. During a period of emergency, special assembly meetings may be scheduled on less than 24 hours notice, provided that all assembly members have been provided at least 8 hours notice of such meeting either orally (in-person or by telephone), or by email, text or other electronic means. (Such meetings to be held only at the request of the mayor or of four or more assembly members). During a period of emergency, an assembly member or members participating by teleconference shall be counted for purposes of determining a quorum. All other provisions of 3.08.080 shall remain in effect.

E. The Borough Manager, Incident Commander and the Assembly are also authorized to issue non-mandatory alerts to the public, when an order is deemed unnecessary; and make use of all available resources of the borough government, including borough personnel, as may be reasonably necessary to cope with an emergency. The manager or incident commander may transfer or alter the function of municipal departments or personnel for the purpose of performing or facilitating performance of emergency services.

3.72.07[4]0 - Compliance with official orders during period of emergency --Violations and penalties.

[It shall be a misdemeanor, punishable by a fine not to exceed the sum of one thousand dollars or by imprisonment for a term not to exceed ninety days, or both, for any person during a proclaimed disaster ~~emergency~~ to wilfully:]

A. No person shall o[O]bstruct, hinder, or delay [any] authorized borough and emergency personnel, including without limitation [accredited] members of any [the] disaster or [and] emergency services organization, in the enforcement of their duties during any period of emergency. [any lawful rule or regulation issued pursuant to this chapter, or in the performance of any duty imposed by virtue of this chapter;]

B. No person shall fail or refuse to comply with any order issued under PMC 3.72.060(A), or the lawful orders of duly authorized law enforcement officers or personnel during any period of emergency. [Do any act forbidden by any lawful rule or regulation issued pursuant to this chapter, if such act is of such nature as to give, or be likely to give, assistance to the enemy, or to imperil the lives or property of inhabitants of the city, or to prevent, hinder, or delay the defense or protection thereof;]

C. No person shall [Te]. wear, carry or display, without authority, any means of identification specified by the borough [city] emergency preparedness and emergency services office or the Alaska Division of Homeland Security and Emergency Management [Services].

D. Violation of this section shall be as follows:

1. When committed intentionally, knowingly, or recklessly, a Class B misdemeanor, punishable by a fine not to exceed the sum of two thousand dollars (\$2000) or by imprisonment for a term not to exceed ninety days, or both; or

2. When committed without any culpable mental state, a strict liability violation, subject to a fine as provided in the fine schedule set forth in Section 1.16.030 of the Borough Code; if the offense is not listed in the fine schedule, the person must appear in court, and shall be punished by imposition of a fine in accordance with Section 1.16.010.

Section 4. Fine Amounts: The following fine amounts are adopted for violations under Section 3.72.070(D)(2), and shall be administratively incorporated into Section 1.16.030 of the Borough Code:

Section Number	Description of Violation	Fine Amount
3.72.070(A)	Obstruct, hinder, or delay authorized personnel in their duties during any period of emergency	\$500.00
3.72.070(B)	Failure or refusal to comply with emergency orders under sections 3.72.060(A), or the lawful orders of law enforcement personnel	\$500.00
3.72.070(C)	Unauthorized wearing, carrying or display of identification specified by borough emergency preparedness/services office or the Alaska Division of HS&EM	\$500.00

Section 5. 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 of other persons or circumstances shall not be affected.

Section 6. Effective Date: This Ordinance shall be effective immediately upon adoption.

Passed and approved by the Petersburg Borough Assembly, Petersburg, Alaska this 21st day of September, 2020.

Mark Jensen, Mayor

Debra K. Thompson, Borough Clerk

Adopted:
Published:
Effective: