

**PETERSBURG BOROUGH
ORDINANCE #2020-**

**AN ORDINANCE AMENDING CHAPTER 14.12, TITLED SANITATION, OF THE
BOROUGH CODE REGARDING THE CONTROL OF REFUSE BY RESIDENTS**

WHEREAS, the Petersburg Borough wishes to mitigate the public health and safety hazard that exists when bears seek and access refuse as a food source.

THEREFORE, THE PETERSBURG BOROUGH ORDAINS, Chapter 14.12, Sanitation, of the Petersburg Municipal Code is hereby amended to prevent bears from accessing refuse.

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

Section 2. Purpose: The purpose of this ordinance is to amend the Petersburg Municipal Code to abate the public nuisance of bears accessing refuse.

Section 3. Substantive Provisions: Sections 14.12.010 – *Definitions* and 14.12.080 – *Duty to have, use and maintain containers* of the Petersburg Municipal Code are hereby amended as follows. (The language proposed for deletion is struck through and the language proposed for addition is in red text.)

14.12.010 - Definitions.

The following words, terms and phrases when used in this title and in the administrative procedures associated with this title, shall have the meanings ascribed to them except where the context clearly indicates a different meaning:

"Baler waste" means any materials that are not accepted by the utility as wood waste, metal waste, household hazardous waste or recyclables, and will be baled as municipal solid waste. This is referred to as the refuse stream.

"Commingled" means a mixture of recyclable materials that meets the acceptable standards as defined by the sanitation department and the recycling program. Also referred to as "single stream recycling".

"Container" means a container supplied or approved by the borough.

"Fully enclosed structure" means a structure framed with and covered by rigid materials, permanently affixed to the ground, with all places of entry covered by a door, window, roof, lid, or other covering that requires hands or tools to open, unless the structure has proven ineffective to withstand entry by a bear, whether due to design or improper use, two or more times within the previous twelve months.

"Household hazardous waste" means non-industrial, residential grade chemical wastes which require specialized disposal to meet environmental law. These materials shall not be disposed of through the borough's wastewater treatment system or by inclusion in the refuse stream. Examples include, but are not limited to: paint, wood stain, varnish, lacquer, corrosive cleaners, lubricants, hydraulic fluid, brake fluid, transmission fluid and solvents.

"Landfill salvage program" means a program and permit system that allows customers to enter the landfill for the purposes of salvaging usable materials. The program is subject to the written landfill salvage program, that may be amended from time to time by the public works director.

Commented [LE1]: This definition is beefier than the wording used by other towns. Some say "in a structure or container that requires hands or tools to open." Think of a poorly built shed made of plastic tarp siding with a latch on it. We might require hands or tools, but a bear could easily slash through or pull off the siding that's attached to the 2x2 frame with 1" nails. Why set a low standard, wait for it to fail two times, then cite the person? This could also be the garbage can itself with an improvised metal strap around it. Bears may drag it down the street and chew off the lid. That becomes a traffic hazard plus they may get the garbage anyway. Plus you're just asking for bears to damage borough property.

I'm trying to include a range of secure structures, including chain link enclosure on a poured slab or with concrete footings, woodshed with a door, wood structure built for the purpose of enclosing garbage cans, garage, house, apartment.

"Places of entry" may need to be rephrased because woodsheds and chain link both have openings in the walls by design. In a construction context, "places of entry" arguably means human entry, but it's weak to depend on that understanding here. When talking about garbage, insect and rodent entry is important. However, chapter 9.16 Nuisances covers us here. That makes it unlawful to keep refuse in such a way that it produces odors or could breed insects or rodents. So you can't just throw uncontained refuse in your chain link structure or woodshed. Plastic bags are out because rodents easily chew their way in.

I'm trying to exclude a carport, greenhouse, flimsy frame with chicken wire stretched over, tent, lean-to made of a plastic tarp, anything that you slip over the top of the can, vinyl-covered prefab toolshed that has no foundation and is very lightweight, etc.

An old wooden shed or site-built garbage enclosure ceases to be bearproof as it decays. It might meet the first part of the definition, but as the wood decays and fasteners loosen, a motivated bear could easily pull off the siding. That's where the functional part of the definition comes into play – two failures in a year means it no longer meets the definition.

"Metal refuse container," commonly called a dumpster, means a lidded metal container designed to be lifted and emptied by a garbage truck and either tightly covered by a bear-resistant metal lid fastened with a bear-resistant device at all times except when refuse is being added or removed, or located within a containment area behind barriers sufficient to withstand entry by a bear, unless the container or containment area has proven ineffective to withstand entry by a bear, whether due to design or improper use, two or more times within the previous twelve months.

"Metal waste" means any material that is predominantly metallic in nature and has limited non-metallic attachments or trim. Examples include, but are not limited to: small engines and equipment, outboard motors, appliances, scrap metals, bicycles, etc. This applies to ferrous and non-ferrous metals.

"Reasonable effort" means storing a container in an enclosed building or securing a container with a line, rubber bungee cord, or other method capable of holding the lid closed should the elements cause the container to be knocked over on its side. A simple weight atop the container is not sufficient. The container shall be secured or stored in such a manner until the day of refuse pick-up.

"Recyclable materials or recyclables" means the materials which are targeted and accepted by the borough for inclusion in the recyclable stream.

"Recycling rate" means the percentage (by weight) of recyclable materials that are removed from the community refuse stream in any 12-month period.

"Refuse" means garbage, rubbish or any other trash including but not limited to accumulations of animal, fruit or vegetable matter created by the use and preparation of meat, fish, fowl, fruits or vegetables, fish waste and offal, crockery, bottles or other containers, cans, plastic, metal vessels; trimmings from lawns, trees and gardens; pasteboard boxes, berry boxes, rags, paper, straw, sawdust, packing material, shavings, ashes and similar materials. Refuse does not include recyclable materials.

"Used oil" means engine oil which has been used for a purpose prior to containment and delivery to the utility. Residential used oil is accepted at all times by the utility. Commercial deliveries of used oil shall be accepted based upon available space and operational capacity of the utility.

"Vector" refers to animals or insects that can potentially spread disease through contact with solid wastes and thereby pose a danger to public health.

"Voucher" refers to a purchased permit which allows for discounted disposal rates for borough residents as defined by the refuse voucher program.

"Wood waste" means all wooden based waste such as lumber, logs, clean stumps, branches, brush, plywood and other woody waste that can be burned without creation of black smoke.

14.12.080 - Duty to have, use and maintain containers.

- A. Within Borough Service Area 1, it shall be the duty of every person in possession, charge or control of any residence to keep and utilize approved refuse storage containers for refuse collection and disposal by the borough. Applicability of this provision to future borough service areas shall be determined during the establishment of each service area. Commercial or industrial structures where refuse is created or accumulated shall keep approved refuse storage containers for refuse collection and shall either provide for delivery to the borough solid waste baling facility, or enroll in the Borough's collection service.
- B. The borough will provide approved refuse containers to customers within Service Area 1, for voluntary customers outside of Service Area 1 and for future service areas as determined during service area development, and when provided they shall be used. Refuse storage containers shall be of an approved type as designated by the borough and shall be strong, watertight, not easily corrodible, rodent-proof, and insect-proof. Containers shall have an overlapping cover or a cover permanently attached to the container. A reasonable effort shall be made by each customer to stow or secure refuse containers in such a manner that refuse will not be accessible to animals. Containers which cannot be mechanically emptied shall not be allowed. Customers failing to adhere to this section shall be subject to a fee of \$5.00 per pickup of a non-approved container, in addition

Commented [LE2]: "Dumpster" is a trademark name and should be capitalized, but it's commonly used to mean a general type. It's used in E (now F) below without definition and without capitalization. I included it here because it is the ordinary word for this object and it helps clarify E/F below.

Commented [LE3]: The current ordinance has almost no description of dumpsters. They're included in the definition of container and are simply a container either supplied or approved by the borough. I have no idea whether commercial businesses own their dumpsters or the borough provides them. In any case, I'm guessing the bear-resistant device is new, and it will be an expense to either the borough or the resident. The metal lid may also be a new expense. I don't know if the borough currently approves plastic lids.

With regard to the containment area, I picture a top covering and we might want to specify it. I'm guessing a bear can easily climb over a six-foot chain link fence or similar, so a top covering may already be required in "barriers sufficient to withstand entry."

Public Works might want us to say that the bear-resistant device and containment area cannot require a tool, key, code, password, or other gizmo to open. The collection guys need quick access without having to mess around with unique devices. If the borough supplies the dumpster and the bear-resistant device, then the borough controls the situation so nothing more needs to be said.

The containment area, if opted, will clearly be an expense of the resident. Another point of discontent.

Commented [LE4]: This is the only occurrence of "reasonable effort" in Title 14, so I've deleted the entry in the definitions section. ("Reasonable effort" occurs later in the title but it's used with a general meaning, as in making a reasonable effort to notify customers of delinquent accounts.)

to their monthly service charge and any applicable extra refuse charge imposed under subsection 14.12.140 G. of this chapter.

- C. Except as provided in this subsection, refuse shall be stored in a fully enclosed structure or a metal refuse container. A container containing refuse may be temporarily placed outside a fully enclosed structure for purposes of collection no earlier than 4:00 a.m. on a day scheduled for collection and must be returned to a fully enclosed structure no later than 8:00 p.m. on that day.
- GD. The borough will provide recyclable containers for all customers who elect to recycle and when provided they shall be used. Recyclable containers shall be capable of protecting the materials from weather by means of an overlapping lid or ability to be sealed from the elements. The containers shall function so as to minimize odors and vector attraction. Consumer food and beverage containers deposited into recyclable containers shall be rinsed prior to placement in the container to prevent vector attraction and provide a product acceptable to recycling markets.
- DE. The customer shall keep each refuse or recyclable storage container clean inside and out so that no odor nuisance shall exist. Unless a container is empty or stored in a fully enclosed structure, the covers or lid shall not be removed except when necessary to place refuse in the storage container or take refuse from the container. Containers shall not be overloaded to the extent covers cannot be securely replaced or the deposited materials would be exposed to the weather.
- EF. A level pad of concrete or wood plank shall be provided by the customer for siting of wheeled dumpsters. The pad shall be constructed to drain water to keep the dumpster from freezing to the pad and of a sufficiently smooth surface so the dumpster can be easily rolled. The pad shall be located to provide ease of access by the collection equipment and shall be built at a correct height so that trucks can secure and empty containers.
- FG. On the customer's designated collection day, refuse and recyclable storage containers shall be placed so the collector can have direct access to the containers by no later than the start of that day's sanitation work shift. Access to containers must remain thereafter unless and until collected by borough personnel by the end of that day's sanitation work shift. It shall be required that refuse and recyclable containers be placed within eight feet of the driven road surface on any public property or right of way. Containers shall not have obstructions between the container and the collection truck and must be placed with a minimum of three feet clear space around the container.

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 _____, 2020.

Mark Jensen, Mayor

ATTEST:

Commented [LE5]: Note that refuse and the garbage can part company here. Refuse is enclosed, cans are not necessarily. It doesn't matter where you store the can, which you're required to keep clean and odor-free. You can keep the can outside all week as long as there's no refuse in it.

"A container containing refuse" is awkward but clear. Note that you have to get the can back inside the fully enclosed structure by 8:00 pm only if it contains refuse. (For example, you get the can out late and miss the truck or the truck breaks down.) If everything goes routinely, you can leave the can out on the street or highway as long as you want. Since you're required to keep the can clean and odor-free and there's no refuse in it, it's not a bear issue. It's unsightly and maybe the borough should require people to keep empty cans on their own property, but that's beyond our scope of interest here.

When they specify a rollout time, other SE towns that I looked at all set 4:00 am. I think that's too early. There are still four hours of darkness in the fall. But some people work odd shifts. Only Sitka specifies a roll back in time of 8:00 pm. That's essential.

Maybe the bear biologist can address the 4:00 am issue. It seems like bears are most garbage-seeking in the early evening and would be unlikely to come back into town for a 4:00 am banquet. Maybe 4:00 am is OK.

Commented [LE6]: It seemed a little overreaching to tell people to keep the cover on their garbage can when keeping the cover off presents no offense to sanitation. People are free to keep the cover off in their own homes, garages, sheds, etc. A nonempty dumpster in a containment area should be kept closed because it's outside and that's a public concern plus it's important to keep rain out.

Commented [LE7]: This prevents conflict with new C above. It terminates the obligation to allow access at the point when the work shift ends. Without this new language, we compel that you leave the can out indefinitely, possibly until next week if for some reason refuse collection is delayed. New C above now compels that you return it to a fully enclosed structure after 8:00 pm.

Debra K. Thompson, Borough Clerk

Adopted:
Noticed:
Effective: