

**PETERSBURG BOROUGH
ORDINANCE #2019-04**

**AN ORDINANCE AMENDING CHAPTER 9.28, TITLED FIREWORKS, OF THE BOROUGH
CODE TO UPDATE LANGUAGE, DECLARE ITS APPLICATION WITHIN SERVICE-AREA 1
ONLY, AND ALLOW PUBLIC USE OF FIREWORKS INSIDE SERVICE AREA 1 BY PERMIT
FOR SPECIAL EVENTS AND DURING SPECIFIC TIMES OF DAY ON JULY 3, JULY 4 AND
DECEMBER 31**

WHEREAS, the Assembly wishes to update the fireworks ordinance from City code to Borough code and wishes to allow public use of fireworks inside Service Area 1 by permit for special events and on certain days of the year.

THEREFORE, THE PETERSBURG BOROUGH ORDAINS, Petersburg Municipal Code Chapter 9.28 is hereby amended to allow public use of fireworks inside Service Area 1 by permit for special events and on July 3, July 4 and December 31 each year.

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 Borough Code Chapter 9.28, titled Fireworks, to update language and to declare it to be applicable only within Service Area 1, and to allow public use of fireworks inside Service Area 1 by permit for special events and on July 3, July 4 and December 31 each year.

Section 3. Substantive Provisions: Chapter 9.28 of the Petersburg Borough Municipal Code is hereby amended as follows (The language proposed for deletion is struck through and the language proposed for addition is in red text):

Sections:

- 9.28.010 – Application -- Definitions.**
- 9.28.020 – Sale and use of fireworks.**
- 9.28.030 – Use of display or consumer fireworks by permit.**
- 9.28.040 – Violations.**

9.28.010 - Application -- Definitions.

A. Application of this Chapter is limited to Service Area 1 of the Borough.

B. For purposes of this Chapter, the following words, terms and phrases shall have the meanings ascribed to them:

“Consumer fireworks” or “1.4G fireworks” means small firework devices containing restricted amounts of pyrotechnic composition designed primarily to produce visible or audible effects by combustion, as further defined by the International Fire Code as adopted by the Borough.

"Display fireworks" or "1.3G fireworks" means large firework devices which are explosive materials intended for use in firework displays and are designed to produce audible or visible effects by combustion, deflagration or detonation, as further defined by the International Fire Code as adopted by the Borough.

"Fireworks" means any composition or device for the purpose of producing a visible or an audible effect for entertainment purposes by combustion, deflagration or detonation that meets the definition of consumer (1.4G) fireworks or display (1.3G) fireworks as set forth in this section.

"Negligent". A person acts in a negligent manner with respect to a result or to a circumstance described by a provision of this Chapter defining an offense when the person fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that the failure to perceive it constitutes a deviation from the standard of care that a reasonable person would observe in the situation.

9.28.020 - Sale and use of fireworks.

- A. The display, offer or expose for sale, trade or bargain, sale, or sale at retail of fireworks is prohibited.
- B. The use, ignition, or discharge of display fireworks is prohibited except by permit issued under Section .030 of this Chapter.
- C. The use, ignition, or discharge of consumer fireworks is prohibited except,
 - (i) in compliance with paragraph D below, and only during the following hours:
 - 1. Between the hours of Noon on July 3 and 1:00 a.m. on the immediately following day; and
 - 2. Between the hours of Noon on July 4 and 1:00 a.m. on the immediately following day; and
 - 3. Between the hours of Noon on December 31 and 1:00 a.m. on the immediately following day; or
 - (ii) by permit issued under Section .030 of this Chapter.
- D. Use, ignition or discharge of consumer fireworks permitted under paragraph C above must comply with the following:
 - 1. No person under the age of 18 shall use, ignite or discharge a consumer firework without parental supervision.
 - 2. A person shall only use, ignite or discharge a consumer firework device on real property they own or on property where consent has been given.
 - 3. No person shall use, ignite or discharge a consumer firework such that the firework including any debris therefrom shall enter or fall on property they do not own or on property where consent has not been given.
 - 4. Consumer fireworks shall not be used, ignited or discharged by persons showing visible signs of, or determined to be, intoxicated or under the influence of a drug or narcotic.
 - 5. No person shall use, ignite or discharge a consumer firework device in a negligent manner or in any manner likely to cause death, injury, fire or property damage. Any person using, igniting or discharging a consumer firework device assumes all responsibility for its operation and the consequences thereof.

6. No person shall use, ignite or discharge a consumer firework device when doing so has been prohibited by an order of the Fire Marshal; this includes orders warranted by climactic conditions, drought, fire danger, the ability to suppress fires or other factors which increase the likelihood of fire danger or impact the ability to fight fire.
7. No person shall use, ignite, alter, remove, or discharge components of a consumer firework device in a manner different from or contrary to the instructions of the manufacturer or its intended method of discharge.

9.28.030 – Use of display or consumer fireworks by permit.

A. The Borough may permit, with the prior written approval of the Police Chief and the Fire Marshal, the use or discharge of display fireworks, as set forth in the International Fire Code as adopted by the Borough and as permitted by State law.

B. The Borough may permit, with the prior written approval of the Police Chief and the Fire Marshal, or their designees, individual use or discharge of consumer fireworks on days other than those set out in Paragraph C of Section .030 of this Chapter, provided that such use is in compliance with Paragraph D of Section .020.

9.28.040 – Violations.

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 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 violation of Chapter 9.28 of the Borough Code, and shall be administratively incorporated into Section 1.16.030 of the Borough Code:

<u>Section Number</u>	<u>Description of Violation</u>	<u>Fine Amount</u>
9.28.020A	Display, offer or expose for sale, trade or bargain, sell, or sell at retail of fireworks within Service Area #1	\$500.00
9.28.020B	Use of display fireworks without a permit within Service Area #1	\$500.00
9.28.020C	Use of fireworks within Service Area #1 outside of permitted dates and hours or in violation of the restrictions regarding such use; first offense within a 5 year period	\$150.00
9.28.020C	Use of fireworks within Service Area #1 outside of permitted dates and hours or in violation of the restrictions regarding such use; second offense within a 5 year period	\$300.00

9.28.020C	Use of fireworks within Service Area #1 outside of permitted dates and hours or in violation of the restrictions regarding such use; third offense within a 5 year period	\$500.00
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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 application to any person and circumstance shall not be affected.

Section 6. Effective Date: This ordinance shall become effective immediately after the date of its passage.

Passed and approved by the Petersburg Borough Assembly, Petersburg, Alaska this 10th day of June, 2019.



Mark Jensen, Mayor

ATTEST:



Debra K. Thompson, Borough Clerk

Adopted: 6/10/2019
Noticed: 6/13/2019
Effective: 6/10/2019