

**PETERSBURG BOROUGH
ORDINANCE #2018-02**

**AN ORDINANCE ADOPTING A NEW PETERSBURG MUNICIPAL CODE CHAPTER 4.80, TO
IMPOSE A MARINE PASSENGER FEE, IN ORDER TO ADDRESS THE COSTS INCURRED
BY THE BOROUGH FOR SERVICES AND INFRASTRUCTURE RENDERED TO CRUISE
SHIPS AND CRUISE SHIP PASSENGERS VISITING THE BOROUGH**

WHEREAS, the Petersburg Borough Assembly believes a per person, per cruise Marine Passenger Fee should be imposed upon and collected from marine passenger ships not otherwise exempted in order to address the costs incurred by the Borough for services and infrastructure rendered to the cruise ship industry.

THEREFORE, THE PETERSBURG BOROUGH ORDAINS 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 create a new Chapter 4.80, Marine Passenger Fee, of the Borough Code to impose a per person, per cruise, marine passenger fee in order to fund services and infrastructure rendered to or for the benefit of cruise ships and cruise ship passengers visiting the Borough.

Section 3. Substantive Provisions: Chapter 4.80, Marine Passenger Fee, of the Petersburg Borough Municipal Code shall be added to read as follows:

4.80 Marine Passenger Fee

- 4.80.010 Purpose and intent.
- 4.80.020 Definitions.
- 4.80.030 Imposition of fee.
- 4.80.040 Calculation of fee.
- 4.80.050 Payment of fee.
- 4.80.060 Exemptions.
- 4.80.070 Procedures and forms.
- 4.80.080 Penalties and interest for delinquency.
- 4.80.090 Recordkeeping.
- 4.80.100 Delinquency.
- 4.80.110 Protest of fees.
- 4.80.120 Criminal liability; Civil penalty; Use of harbor or dock facilities.
- 4.80.130 Use of proceeds

4.80.010 Purpose and intent.

It is the purpose of the fee imposed under this chapter to address the costs to the Borough for services and infrastructure rendered to marine passenger ships and marine passengers visiting the Borough.

4.80.020 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:

"Agent" and "authorized agent" mean the master or person in charge of the ship or any other person authorized by the owner or operator of the ship to act on behalf of the owner or operator with respect to the ship.

"Borough" means the Petersburg Borough.

"Borough manager" or "manager" means the Borough manager of the Petersburg Borough.

"Cruise" means a single voyage by a marine passenger ship with the same group of passengers, and which involves travel within the Borough.

"Entry into any port" means anchoring or mooring and allowing passengers to embark or disembark.

"Marine passenger" and "passenger" mean any person who has paid any amount for a ticket contract entitling that person to transportation aboard the ship. The term does not include the owner's or operator's employees or their immediate family members sharing their quarters; the owner's or operator's contractors or subcontractors; or musicians, artists, guest speakers, art auctioneers, interpreters, rangers or similar persons traveling without charge but providing passenger services for the owner or operator.

"Marine passenger ship" and "ship" mean a vessel carrying passengers for compensation.

"Passenger manifest" means a document demonstrating the total number of passengers aboard the ship at the time it enters into any port within the boundaries of the Borough.

"Person" means any individual, partnership, firm, association, company, corporation or combination of individuals or entities of whatever form or character.

4.80.030 Imposition of fee.

A. A fee of \$5.00 per passenger per visit shall be assessed for every marine passenger ship not otherwise exempted upon entry into any port within the Borough.

B. The per passenger fee imposed under this Chapter shall be assessed only once per cruise, at the time of first entry by a ship into any port within the Borough.

4.80.040 Calculation of fee.

A. The passenger fee for each ship shall be calculated based upon the passenger

manifest for the ship upon first entry into any port within the Borough.

B. Upon first entry into any port within the Borough, the owner, operator, or authorized agent from each ship shall present the Borough port director or other Borough representative with a passenger manifest. If not otherwise shown on the passenger manifest, the owner, operator, or agent shall, upon demand and reasonable notice, additionally provide to the Borough a listing of the names of all passengers aboard the ship during the entry. The passenger manifest and any other requested documents shall be signed, produced, delivered or electronically transmitted by the owner, operator or agent of the ship, in accordance with procedures adopted by the Borough. If any irregularity of omission or commission occurs in any way in respect to any document or information submitted hereunder, the owner, operator, and/or agent of the ship, or any party responsible for such irregularity, shall be liable for any fine or penalty prescribed by law with respect to such irregularity.

4.80.050 Payment of fees.

The passenger fees shall be paid by the owner, operator, or authorized agent of the ship to the Borough within 60 days from first entry of the ship into any port within the Borough.

4.80.060 Exemptions.

The fee shall not apply to the following:

- (1) Ships having accommodations for 20 or fewer passengers;
- (2) Ships without berths or overnight accommodations for passengers; or
- (3) Noncommercial ships, ships operated by nonprofit entities as determined by the United States Internal Revenue Service, or ships operated by the state, the United States of America, or a foreign government.

The burden of proving an exemption shall be on the person claiming the exemption. Persons claiming an exemption may be required to obtain an exemption certificate. Certificates issued under this chapter shall be numbered and shall expire as determined by the manager or the manager's designee.

4.80.070 Procedures and forms.

A. The manager or the manager's designee shall take all steps necessary and appropriate to administer this chapter which includes the authority to subscribe forms, require submission of supporting documents, compromise and abate penalties, and to negotiate and enter into payment plans for delinquent fees, penalties and interest.

B. Except as otherwise provided in this chapter, all passenger manifests obtained by the Borough under this chapter shall be kept confidential and shall not be subject to public inspection. Except upon court order, such manifests shall be made available only to employees of the Borough whose job responsibilities are directly related to such manifests; to the person

supplying such documents and information; to persons authorized in writing by the person supplying such documents and information; and as provided under paragraph C through E below. The following information shall be made available to the public:

1. The names of ships subject to the fee, whether or not current in payment of fees;
2. The total fees due cumulatively from all ships, on a calendar year basis;
3. The names of ships which have been issued an exemption certificate; and
4. The manager or the manager's designee may, from time to time, publish the names of ships and owners, operators and authorized agents delinquent in payment of fees and the amount thereof; provided that the names of owners, operators or agents who have signed a confession of judgment for the delinquent fees, penalties, and interest, and a stipulation to postpone execution on the judgment, and who are current in their payments under such stipulation as of the date on which the names are submitted to the publisher, will not be published. Information may also be made available to the public in the form of statistical reports if the identity of a particular passenger is not revealed by the reports.

C. To the extent required by law, the manager may permit the proper officer of the United States, of a state, or other municipality to inspect manifests filed under this title, or may furnish to the officer a copy of the manifest, if the other jurisdiction grants substantially similar privileges to the Borough and if the Borough determines that the other jurisdiction provides adequate safeguards for the confidentiality of the manifests, and that the manifests will be used for government revenue purposes only.

D. The manager may use and release information from a manifest as reasonably necessary to respond to an emergency involving the ship which provided the manifest.

E. In a civil action brought by the Borough under 4.80.100(C), the manager may utilize a manifest, or information from a manifest or any supporting documentation, in order to establish the amount of the fee due.

4.80.080 Penalties and interest for delinquency.

The fees charged under this chapter must be paid to the Borough within 60 days of the port entry for which the fee is owed. Interest at a rate of 10.5 percent per year on the delinquent fee from the date of delinquency until paid shall accrue and be collected in the same manner the delinquent fee is collected.

4.80.090 Recordkeeping.

In order to facilitate the administration and enforcement of the provisions of this chapter, each owner, operator or authorized agent of a ship subject to payment of a fee under this chapter shall maintain and keep for a period of six years after the date of filing all of the period passenger manifests, forms and supporting records and other records and documents prescribed by the manager. Upon the request of the manager, the owner, operator or agent of a marine passenger ship shall make available for examination within the Borough all such books, records and other documents of the ship, unless the manager or the manager's designee authorizes the examination to be conducted at a different location.

4.80.100 Delinquency.

A. Whenever the manager reasonably believes a manifest contains inaccurate information or whenever any ship has become delinquent in the submission of manifests, supporting documents, or the payment of fees, the manager shall mail to the owner, operator, or authorized agent's last known address a written demand by certified mail, return receipt requested, for submission of the documents, corrected documents or required manifest fee payment.

B. In the event of noncompliance with a manifest or corrected manifest submission demand, or related supporting documentation, the manager may make an estimated passenger fee billing against the delinquent ship, the billing to be based on an estimate of the passenger count during the filing period in question. A copy of such billing shall be sent to the owner, operator, or agent at the owner's, operator's, or agent's last known address by certified mail, return receipt requested. The owner, operator or agent shall have a right to a hearing before the manager at which time the owner, operator or agent shall make available for examination the books, papers, records and other documents pertaining to the passenger count for the period involved in the billing. The owner, operator or agent may exercise the right to a hearing by delivering to the manager within 30 days of the date the notice was mailed a written request for a hearing. The manager shall establish a date and time for a hearing to be held within 30 days of receipt of the request unless a later time is mutually agreeable. The hearing officer conducting the hearing may approve the estimated billing or issue an amended billing. The amended billing, or the original estimated billing if no amendment is made by the hearing officer, shall be the final billing for the purpose of determining liability to the Borough. If no timely request for a hearing is made, the original estimated billing shall be deemed the final billing 30 days after the mailing of the notice of the original estimated billing, unless the owner, operator or agent has submitted an accurate return within the 30 days.

C. The Borough may file a civil action for collection of any fees or interest due before or after making a demand or billing under subsection (A) of this section.

D. Whenever any owner, operator or agent has failed to timely submit the required manifest or supporting documents, or pay the fees due, the manager may require such owner, operator or agent to pay fees upon entry into a port within the Borough rather than within 60 days thereof.

4.80.110 Protest of fees.

An owner, operator, or agent who protests the payment of the fees charged under this chapter shall timely pay the protested fees and, within the time set for payment of the fees, provide the manager with a written statement of protest specifying the amount of fees paid and the basis for the protest. The manager's decision shall be final and any appeal thereof shall be to the superior court.

4.80.120 Criminal liability; Civil penalty; Use of harbor or dock facilities.

A. Any person violating any of the provisions of this chapter or failing or refusing to comply with a lawful request or demand of the manager authorized or made under this chapter is guilty of a class A misdemeanor.

B. In addition to or in lieu of any criminal liability imposed under this chapter, a civil penalty may be imposed against any person who violates a provision of this chapter in the amount of \$100.00 for each separate violation. Each and every day that a person fails to comply beyond the date fixed for compliance shall constitute a separate violation. The Borough may bring a civil action seeking recovery of a civil penalty imposed hereunder. All remedies for violation of this chapter are cumulative and in addition to any others existing at law or in equity.

C. No ship delinquent in the payment of passenger fees or in the filing of returns or supporting documentation, nor any lightering craft carrying passengers to or from such ship, shall be allowed to moor or anchor at, or transport passengers to, any harbor or dock facility owned by the Borough, except with the permission of the manager.

4.80.130 Use of proceeds.

A. Purposes. The fees collected under this chapter shall be placed in the marine passenger special revenue fund. The proceeds of the fund shall be appropriated in support of the marine passenger ship industry including but not limited to:

1. Design, construction, enhancement, operation, or maintenance of capital improvements made available to ships or passengers;
2. Operating funds for personnel, training, commodities, rentals, services and equipment for services provided, made available to, or required as a result of marine passenger ships and marine passengers;
3. Projects and programs that promote safety, environmental improvements, efficiency of interstate and international commerce, or enforcement of laws caused or required by marine passenger ships and marine passengers;
4. Acquisition of land or facilities required to execute the activities listed in this section;
5. Surveys, analyses, polls, plans, monitoring and similar efforts to measure, describe or predict, or manage marine passenger ships and marine passengers, for items listed in subsections A1-A4 of this section.

B. Procedures. Funds shall be transferred or expended from the marine passenger fund by the assembly during the ordinance adoption of the budget or by supplemental budget ordinance.

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 of other persons or circumstances shall not be affected.

Section 5. Effective Date: This Ordinance shall become effective January 1, 2019.

Passed and approved by the Petersburg Borough Assembly, Petersburg, Alaska this 5th day of March, 2018.



Mark Jensen, Mayor

Attest:



Debra K. Thompson, Borough Clerk

Adopted: 3/5/2018
Published: 3/15/2018
Effective: 1/1/2019