

**PETERSBURG BOROUGH
ORDINANCE #2022-10**

**AN ORDINANCE PROPOSING AN AMENDMENT TO SECTION 11.13E (PURCHASING;
CONTRACTING) OF THE HOME RULE CHARTER OF THE PETERSBURG BOROUGH TO
ALLOW BOROUGH EMPLOYEES AND OFFICIALS TO PARTICIPATE IN BOROUGH
PROPERTY SALES WHEN CONDUCTED BY COMPETITIVE OUTCRY AUCTION, AND
DIRECTING THAT THE PROPOSED CHARTER AMENDMENT BE SUBMITTED TO THE
QUALIFIED VOTERS OF THE BOROUGH**

WHEREAS, Section 11.13E of the Borough Charter currently reads as follows (emphasis added):

Personal Interest. **Borough officers, employees and elected officials shall not be eligible to sell, barter, or supply anything to the borough or purchase anything from the borough while holding office or employment or for a period of six months after leaving office or employment unless an invitation to submit sealed bids is published**, and the borough complies with all ordinance provisions regarding the acceptance or rejection of bids. This section shall not apply to things valued at less than \$5,000.00 or those things which the borough offers generally to the public (as for example, utility services) which shall be purchased or offered at prices or rates prevailing in the community and without discrimination.

; and

WHEREAS, the Borough Code, at PMC 16.12.020, allows public sales of Borough real property to be conducted by either submittal of sealed bids or by outcry auction; and

WHEREAS, both sealed bidding and outcry auction procedures constitute competitive bidding, and thus there is no substantive difference between the two methods in regard to ensuring that borough employees and officials are not perceived to have received an unfair advantage, which could arise if direct sale procedures were utilized; and

WHEREAS, the Assembly has generally opted for the holding of outcry auctions for the sale of real property, deemed preferable for the purposes of maximizing sale proceeds, with the resulting unintended consequence of excluding borough employees and officials from participation in the auction under Charter section 11.13E even though competitive public bidding is occurring; and

WHEREAS, nothing in this amendment would alter the substantive intent of Section 11.13E, ensuring that competitive procedures have been utilized in connection with property sales in which borough employees and officials participate; and

WHEREAS, Petersburg Borough Charter Section 18.02, entitled Election, specifies that any proposed charter amendment shall be submitted to the qualified voters of the Borough.

THEREFORE, THE PETERSBURG BOROUGH ORDAINS, that the following proposed amendment to the Home Rule Charter of the Petersburg Borough be submitted to the qualified voters of the Borough at the next regular or special election occurring more than 90 days after adoption of this ordinance.

Section 1. Classification: This is a non-code ordinance, however the proposed borough charter amendment set out below is of a permanent nature and, if approved by the voters, shall be reflected in the Petersburg Borough Charter.

Section 2. Purpose: The purpose of this ordinance is to propose a charter amendment to the Borough voters which would allow borough employees and officials to participate in sales of borough property held using competitive outcry auctions procedures.

Section 3. Substantive Provisions:

a) Proposed Charter Amendment – Sections 11.13E of the Charter: The language proposed for addition is in **red and underlined**.

Section 11.13 - Purchasing; Contracting.

A. The assembly, by ordinance, shall provide for competitive bidding for purchase of goods and services by the borough and sales of surplus borough property and for any exceptions.

B. The assembly, by ordinance, shall establish provisions for approval of borough contracts and exceptions. The provisions shall address, at a minimum:

1. Authority of assembly. All contracts, except as provided in subsection 2 of this section, shall be authorized by the assembly and, if in writing, shall be signed by the manager and clerk. Contracts shall be approved as to form by the borough attorney if the assembly requires such approval.

2. Purchase and Sale of Borough Property. Procedures for the purchase and sale of borough property and equipment shall include a provision for the centralized purchasing on behalf of the borough. The procedures shall also provide the dollar limit within which purchases of the borough property and equipment may be made without specific assembly approval and define those circumstances where competitive bidding is not required.

C. Limitations on Contractual Power.

1. The assembly shall have power to enter into only those contracts which, by their terms, will be fully executed within a period of five years. This limitation shall not apply to contracts concerning interests in real property. Any contract, other than a franchise, which will not be fully executed within a period of five years shall first receive the approval of a majority of the qualified electors of the borough who vote on the contract. This restriction shall not apply to any contract for services with a public utility or with other governmental units, or to contracts for debt secured by the bonds or notes of the borough.

2. The assembly shall provide by ordinance the procedure whereby the borough may purchase, sell, lease or dispose of real property. No action of the assembly to dispose of any borough interest in real property dedicated to public use shall be final until the resolution to do so has been on file in the office of the borough clerk for 30 days.

3. Except as authorized in subsection 11.13B2 above, each contract for the construction of public improvements or for the purchase or sale of personal property shall be let only after opportunity for competitive bidding and after appropriate notice of

not less than two weeks. All bids shall be opened in public at the time and place designated in the invitation for bids. The assembly may reject any or all bids. If, after opportunity for competitive bidding, no bids are received which are satisfactory to the assembly, it may authorize the manager to negotiate for a contract in the open market. The assembly may waive any and all irregularities.

4. The assembly may approve contracts for engineering, architectural, legal, medical and other professional services for the borough without competitive bidding. Such contracts shall not exceed two years, except for completion of work in progress under architectural or engineering contracts.

D. Business Dealings with the Borough. The assembly shall provide by ordinance the procedure whereby an officer or employee of the borough, who intends to have business dealings with the borough whereby he or she may derive income or benefits other than those provided as a remuneration for official duties or the duties of employment, shall file with the clerk a statement, under oath, setting forth the nature of such business dealings and his or her interest therein, not less than ten days before the date when action may be taken by the assembly or by any officer or agency of the borough upon the matter involved. Such statement shall be sufficient for continuing transactions of a similar or like nature for six months from the date of its filing.

E. Personal Interest. Borough officers, employees and elected officials shall not be eligible to sell, barter, or supply anything to the borough or purchase anything from the borough while holding office or employment or for a period of six months after leaving office or employment unless an invitation to submit sealed bids is published **or an outcry auction is conducted**, and the borough complies with all ordinance provisions regarding the acceptance or rejection of bids. This section shall not apply to things valued at less than \$5,000.00 or those things which the borough offers generally to the public (as for example, utility services) which shall be purchased or offered at prices or rates prevailing in the community and without discrimination.

b) Submittal to Voters: The question to be submitted to the voters shall read substantially as follows:

Proposition #____

Allowing Borough Employees and Officials to Participate in Borough Property Sales when Competitive Bidding Procedures are Followed

The Petersburg Borough Charter, at Section 11.13E, currently allows borough officials and employees to participate in sales of borough property when those sales are conducted by competitive sealed bidding. Shall the Petersburg Borough Charter be amended to additionally include sales held by competitive outcry auction?

- YES
- NO

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 application to any person and circumstance shall not be affected.

Section 5. Effective Date: This ordinance shall be effective upon adoption. The proposed borough charter amendment set forth herein, if approved by the voters, shall become effective immediately upon certification of the election results.

Passed and approved by the Petersburg Borough Assembly, Petersburg, Alaska this _____ day of _____, 2022.

Mark Jensen, Mayor

ATTEST:

Debra K. Thompson, Borough Clerk

Adopted:
Published:
Effective: Ordinance effective upon adoption. Charter Amendment effective upon Voter Approval and Certification of Election Results.