

KETCHIKAN CHARTER COMMISSION

AGENDA STATEMENT

NO G-1

MEETING OF **February 13, 2004**

ITEM TITLE Review and acceptance of the Section II and Section III of the City of Ketchikan's Charter of 2001 SUBMITTED BY John Harrington
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SUMMARY STATEMENT

At the last regular meeting, the Commission amended and voted on the Preamble and Section I for the Ketchikan 2004 DRAFT Working Charter, utilizing a comparison document between the Ketchikan 2001 Charter and the Haines, Sitka, Juneau successfully adopted charters.

Sections II & III of the Charters to be reviewed, amended as needed, and accepted as part of the Ketchikan 2004 Draft Working Charter are included in this agenda item.

Also attached to this agenda item are the two sections that will begin review at the Commission's next regular meeting of February 20, 2004, Sections IV and V.

RECOMMENDED ACTION:

"I move to approve Sections II and III of the Ketchikan 2004 Charter in the first reading."

ARTICLE II THE ASSEMBLY

Section 2.01 Legislative Powers.

The legislative power of the municipality is vested in the Assembly.

Section 2.02 Terms and Representation.

(a) **Composition of Assembly.** The Assembly, elected by the qualified voters of the municipality, shall be composed of seven assembly members.

(b) **Mayor.** The mayor shall be elected by the qualified voters of the municipality.

(c) **Terms.** The term of the office of all assemblymembers elected after the first election under this Charter and the term of office of the mayor shall be three years and until a successor qualifies.

(d) **Terms of Assemblymembers and Mayor Elected at First Election.** At the first election under this Charter, the two assemblymember candidates receiving the highest number of votes at large shall be elected for three-year terms and until a successor qualifies. The three candidates receiving the next highest number of votes at large shall be elected for two-year terms and until a successor qualifies. The two candidates receiving the next highest number of votes at large shall be elected for one-year terms and until a successor qualifies. At the first election under this Charter, the Mayor shall be elected for a three-year term and until a successor qualifies. For purposes of computing the length of the first term for assemblymembers elected at the first election, the period between that first election and the first Tuesday of October immediately following that first election will not be considered. The first regular election provided for in Section 5.01(a) will occur no earlier than twelve months after the effective date of this Charter.

(e) **Representation at Subsequent Elections.** At all subsequent regular elections, the election to fill the offices of assemblymembers and the mayor shall be at large by the qualified voters of the municipality for three-year terms except as provided in Section 2.04(c) of this Charter.

(f) **Term of Office** The term of office of the mayor and each assemblymember shall begin upon certification of the results of the election at which the assemblymember was duly elected.

(g) **Term Limits.** The Assembly, subject to voter approval, may adopt term limitations for the offices of mayor and assemblymembers. Such term limitations shall not prohibit persons from serving at least two consecutive three-year terms.

Section 2.03 Qualifications.

(a) **Residency.** Except as may be otherwise provided by law, only a qualified voter of the municipality who has been a resident of the municipality for at least one year immediately preceding election or appointment to office shall be qualified for elective municipal office.

(b) **Determination of Qualifications and Forfeiture.** The Assembly shall be the judge of the election and qualifications of its members and of grounds for forfeiture of office and for that purpose shall have power to subpoena witnesses, administer oaths, and require production of evidence. An assemblymember charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand.

Section 2.04 Vacancies and Forfeiture of Office

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(a) **Creation of Vacancies.** The office of an elected municipal official shall become vacant upon death, resignation, removal from office in any manner authorized by law or by this Charter, or by forfeiture of office.

(b) **Forfeiture of Office.** An elected municipal official shall forfeit office if the official:

- (1) Is convicted of a felony.
 - (2) Fails to comply with all qualifications prescribed by this Charter or applicable law.
 - (3) Knowingly violates any prohibitions of this Charter.
 - (4) Fails to attend three consecutive regular meetings of the Assembly without being excused by the Assembly.
 - (5) Fails to take office within thirty days after election or appointment.
 - (6) Ceases to be a qualified voter residing in the municipality.
1. Commits an act punishable under Subsection 16.01(b) of this Charter.

(c) **Filling of Vacancies.** The Assembly shall, by ordinance, establish procedures for filling of vacancies in the office of assemblymember and mayor. Within thirty days after an assemblymember position becomes vacant, the Assembly shall appoint a qualified person as an assemblymember to serve until the next regular election when a qualified successor will be elected at large and certified to fill the remainder of the unexpired term. If a vacancy occurs in the office of mayor, the vice mayor shall act as mayor until the Assembly appoints a qualified person to serve as mayor until the next regular election when a qualified successor will be elected at large and certified to fill the remainder of the unexpired term.

Section 2.05 Organization and Officers.

(a) **Mayor.** The mayor shall preside at meetings of the Assembly and shall be recognized as head of the municipal government for all ceremonial purposes and by the governor for purposes of martial law. The mayor shall have no administrative duties except that the Assembly may authorize the mayor to sign written obligations of the municipality and perform other occasional duties on behalf of the Assembly.

(b) **Vice Mayor.** At the first meeting after the time prescribed for beginning of the terms for newly elected members, the Assembly shall elect from its membership a vice mayor who shall act as mayor during the absence or disability of the mayor or as provided in Section 2.04(c) above. The vice mayor shall vote as an assemblymember but shall never have the power to veto.

Section 2.06 Salaries and Compensation.

The Assembly, by ordinance, shall determine the salary of the mayor and assemblymembers. An increase in salary shall not take effect until the Assembly meeting following the regular election after the ordinance has been adopted. The Assembly may, by ordinance, provide for expense accounts and/or other payments to the mayor and assemblymembers for expenses incurred in their official duties.

Section 2.07 Meetings.

The Assembly shall meet regularly and at such times and places as shall be prescribed by ordinance. Special meetings shall be held at the call of the mayor or of four or more assemblymembers and, whenever practicable, reasonable notice shall be given. All meetings of the Assembly shall comply with the Alaska Open Meetings law and other applicable laws regarding such meetings.

Section 2.08 Rules and Record.

The Assembly shall, by ordinance, determine its own rules and order of business and shall maintain a journal of its proceedings as a permanent public record.

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Section 2.09 Voting.

(a) **Quorum and Voting Requirements.** Four assemblymembers shall constitute a quorum. No Assembly action shall be valid or binding unless adopted by an affirmative vote of four or more assemblymembers. All assemblymembers present shall be required to vote subject to Section 16.01 of this Charter.

(b) **Mayor's Vote and Veto.** The mayor shall not have a vote except in the case of a tie. The mayor shall vote in the case of a tie subject to Section 16.01 of this Charter. The mayor shall have the power to veto actions of the Assembly except the confirmation or rejection of appointees and except those actions described in Alaska Statutes 29.20.270(c) and (e) (1996). The veto may be exercised at any time prior to the beginning of the next regular meeting of the Assembly provided, however, that the subject of the veto has not passed out of the control of the Assembly prior to the exercise of the veto. The mayor shall advise the Assembly in writing no later than the beginning of the next regular meeting of the reasons for vetoing an action. At such meeting, the Assembly may finally pass an action, ordinance, or resolution over the veto of the mayor, whether or not the mayor submits the reasons for the veto. An affirmative vote of five members of the Assembly shall be required to pass an action, ordinance, or resolution which has been vetoed by the mayor, and the vote shall be by yeas and nays and shall be entered in the journal.

(c) **Roll Calls.** A roll call vote shall be taken whenever required by law or whenever requested by any member of the Assembly. Roll call votes shall be entered in the journal.

Section 2.10 Prohibitions.

(a) **Other Public Offices, Employment, or Contracts.**

(1) No elected municipal official shall be hired or appointed to any compensated municipal office or municipal employment for a period of one year after vacating office, other than membership on a board or commission.

(2) The relationship of independent contractor for goods and services does not constitute employment for the purposes of this section. Subject to any further limitations established by ordinance, elected municipal officials may enter into contracts with the municipality and may buy from, exchange with, or sell to the municipality provided that: A) the contract, purchase, exchange, or sale is awarded through an outcry public auction or through a competitive bidding process in which sealed bids are submitted and the bid most advantageous to the municipality is selected; B) the contract, purchase, exchange, or sale is approved by the Assembly; or C) the goods or services contracted for, purchased, exchanged, or sold have an equivalent value of five hundred dollars (\$500) or less in 1998 dollars.

(b) **Relationship with Employees.** The Assembly shall not recommend or direct the appointment or removal of any officer or employee of the municipality's administration except as provided by this Charter. Subordinates of the municipal manager shall report to and obtain direction from the municipal manager and not from the Assembly, the mayor, or individual assemblymembers.

(c) **Representation of Client.** No assemblymember may represent any client before any municipal department, agency, school district, or utility.

Section 2.11 Investigations.

The Assembly may conduct hearings and may make investigations into matters affecting the municipality and matters concerning the conduct of any municipal department, office, or agency. The Assembly may subpoena witnesses, administer oaths, take testimony, and require production of evidence. Any person who fails or refuses to obey a subpoena or a

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lawful order issued in the exercise of these powers by the Assembly shall be guilty of a misdemeanor.

Section 2.12 Clerk.

There shall be a municipal clerk who shall be an officer of the municipality appointed by the Assembly and who shall serve at the pleasure of the Assembly.

The clerk shall serve as clerical officer of the Assembly. The clerk shall keep the journal of the proceedings of the Assembly and shall permanently record all ordinances and resolutions passed by it. The clerk shall be custodian of such documents, records, and archives as may be provided by law or ordinance; shall be custodian of the seal of the municipality, and shall attest and affix the seal to documents when required in accordance with this Charter, law, or ordinance; shall keep a correct and up-to-date record of the municipal boundaries and changes therein; and shall supervise municipal elections and such other elections as may be required by law or ordinance, including voter registration and records; provided that the Assembly, by ordinance, may vest the supervision of elections in a board. The clerk shall perform other duties as shall be prescribed by the Assembly.

Section 2.13 Municipal Attorney.

There shall be a municipal attorney appointed by the Assembly who shall serve at the pleasure of the Assembly.

Section 2.14 Special Advisors.

Advisors. The Assembly may appoint special legal and financial advisors for bond issues or other matters and shall retain such legal counsel as it requires.

Section 2.15 Boards and Commissions.

(a) **Boards and Commissions.** The Assembly may establish boards and commissions, shall prescribe their duties, purpose, and functions, and the qualifications and conditions of service of the appointed members. Members of boards and commissions shall be appointed by the mayor subject to confirmation by the Assembly. A quorum of any board or commission and the number of members required to approve an action shall be a majority of its membership unless otherwise determined by the Assembly.

(b) By ordinance, the Assembly may create or designate itself to be a board of review, adjustment, or equalization.

Haines ARTICLE II THE ASSEMBLY AND THE LEGISLATIVE BRANCH

Section 2.01 Legislative Powers Vested in the Assembly

The Haines Borough Assembly shall be the sole legislative body of the Haines Borough.

Section 2.02 Composition and Apportionment of the Assembly

Composition. The Haines Borough Assembly shall be composed of six members, elected to staggered terms. (Editorial note: an elected Mayor is sited in a later article.)

Section 2.03 Qualifications, Terms, Compensation

(A) Qualifications. A candidate for the office of assembly member shall be a qualified voter of the Haines Borough and a resident for at least one year immediately preceding the election.

An assembly member who no longer resides in the Haines Borough shall forfeit his office.

(B) Terms. Except for the first assembly elected, the term of an assembly member is three years and until a successor qualifies.

(C) Compensation. The assembly by ordinance may provide for compensation of its members.

Section 2.04 Vacancies

If a vacancy occurs on the assembly, the remaining members shall attempt to appoint a qualified person to fill the vacancy within 30 days. The person appointed shall serve until the next regular election, at which time a successor shall be elected to serve the balance of the term.

Section 2.05 Organization and Rules of the Assembly

(A) Chair. The mayor shall serve as the presiding officer of the assembly. A deputy mayor, chosen by the mayor from among the assembly members, shall preside when the mayor is absent.

(B) Meetings. The assembly shall meet in regular session as determined by ordinance. The mayor or three assembly members may call special meetings.

The assembly by ordinance shall determine its own rules and order of business, including provisions for reasonable notice to all assembly members of regular and special meetings.

(C) Journal. The assembly shall maintain a journal of its proceedings as a public record.

(D) Votes. Voting shall be by roll call, show of hands or other public method as defined by assembly rule. The votes of all assembly members shall be recorded in the journal.

(E) Quorum. A majority of assembly members constitutes a quorum; however, a smaller number may meet in public and reschedule a meeting that a quorum will be compelled to attend, as prescribed by assembly rule.

Section 2.06 Officers

The assembly shall appoint officers who serve at the pleasure of the assembly, advising and assisting the assembly and mayor, and whose duties of office are prescribed by borough code.

Officers of the borough shall include the following:

(A) Borough Manager;

(B) Borough Clerk;

(C) Borough Attorney;

(D) Chief Fiscal Officer.

Sitka ARTICLE II THE ASSEMBLY

Section 2.01 Composition

The Assembly elected by the qualified voters of the municipality shall be composed of seven assembly members, one of whom shall be the mayor.

Section 2.02 Powers

The governing body of the municipality shall be the Assembly. Except as otherwise provided by law or this Charter, the Assembly shall exercise all powers of the municipality and shall provide for the performance of all duties and obligations imposed upon the municipality. Municipal policy shall

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be set and stated upon a majority vote of the assembly. No elected or appointed municipal official shall advocate, as municipal policy, any position not authorized by the assembly.

Section 2.03 Terms and Representation

(a) Term. The Term of office of all Assembly members except the mayor shall be three years. The term of office of the mayor shall be two years. Beginning in the year 2000, mayoral terms will begin and end in even-numbered years. Consequently, the mayor elected in 1999 will be elected for a one-year term.

(b) Representation at First Election. At the first election under this Charter, six Assembly members and a mayor shall be elected. Two Assembly members and the Mayor shall be elected at large by the qualified voters of the municipality. Four shall be known as district Assembly members; two each from Districts A and B. They shall be nominated and elected by the qualified voters of their respective districts which shall be as follows: The boundaries of District A shall be the same as the boundaries of the City and Borough of Sitka as they existed immediately prior to ratification of this Charter. District B shall consist of all the area within the municipality excepting that in District A.

(c) Terms of First Assembly Members. At this first election, two at large Assembly members shall be elected for a term of one year each. The one district Assembly member shall serve a three-year term, and the one district Assembly member from each district receiving the next highest number of votes shall be elected for a two-year term.

(d) Representation at Subsequent Elections. At all subsequent regular elections, the election to fill positions of Assembly members and Mayor as their terms expire shall be at large and they shall be elected by the qualified voters of the municipality at large for three and two-year terms respectively.

Section 2.04 Qualifications

Only a qualified voter of the municipality who has been a resident of the municipality for a least one year immediately preceding his/her election or appointment to office shall be qualified for elective municipal office. A district Assembly member shall be a resident of the district from which he/she is elected at the time of his/her election and during his/her term. The Assembly shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office and for that purpose shall have power to subpoena witness, administer oaths and require production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand. Decisions made by the Assembly under this section shall be subject to review by the courts.

Section 2.05 Vacancies and Forfeiture of Office

The office of an elected municipal official shall become vacant upon death, resignation, removal from office in any manner authorized by law or by this Charter, or by forfeiture of his/her office. An elected municipal official shall forfeit his/her office if he/she:

1. Is convicted of a felony or crime involving moral turpitude.
2. Fails to comply with all qualifications prescribed by this Charter.
3. Knowingly violates any prohibitions of this Charter.
4. Fails to attend three consecutive regular meetings of the Assembly without being excused by the Assembly.

The Assembly shall by ordinance provide the procedures for filling of vacancies. A vacancy shall be filled by the Assembly which shall elect a qualified person within 20 days after the vacancy occurs to be acting Assembly member until the next regular election and until a successor is elected and qualified to fill the remainder of the unexpired term.

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Section 2.06 Organization and Officers

The Mayor shall preside at meetings of the Assembly, shall be recognized as head of the municipal government for all ceremonial purposes and by the Governor for purposes of military law, but shall have no administrative duties. The Mayor shall be a member of the Assembly with all the powers and duties of that office. The Assembly shall meet immediately following certification of the election. At such meeting or within several days thereafter, the Assembly shall elect from its membership a Deputy Mayor who shall act as Mayor during the absence or disability of the Mayor and if a vacancy occurs, shall become Mayor for the remainder of the unexpired term. The Assembly shall provide by ordinance for the interim order of succession of its members to the offices of Mayor and Deputy Mayor.

Section 2.07 Salaries and Compensation

The Assembly by ordinance shall determine the salary of the Mayor and other Assembly members. An increase in salary shall not take effect until the Assembly meeting following the regular election after the ordinance has been adopted. With the approval and authorization of the Assembly, Assembly members shall also receive their actual and necessary expenses incurred in the performance of their duties of office. Mayors and assembly members elected or appointed for the first time after November 1, 1997 shall not accrue or receive municipal retirement or health benefits as a result of their service as mayor or assembly members.

Section 2.08 Meetings

The Assembly shall meet regularly at least twice in every month at such times and places as shall be prescribed by rule. Special meetings may be held on the call of the Mayor or of four or more members and, whenever practicable, upon no less than six hours notice to each member. No action by the Assembly shall have legal effect unless the motion for the action and the vote by which it is disposed of take place at proceedings open to the public.

Section 2.09 Rules and Record

The Assembly shall by ordinance determine its own rules and order of business and shall maintain a journal of its proceedings as a permanent public record.

Section 2.10 Voting

Four members of the Assembly shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Assembly. No Assembly action shall be valid or binding unless adopted by an affirmative vote of four or more members. A roll call vote shall be taken on authorizations for the expenditures of funds and on the passage of ordinances. Upon request of an Assembly member, a roll call vote shall be taken on any question, and a record of the ayes and nays shall be entered in the journal. A vote by secret ballot shall be taken only to elect assembly officers and fill Assembly vacancies. Unless otherwise prohibited by the this Charter, each Assembly member shall vote on each question before the Assembly for consideration unless excused by an affirmative vote of all remaining Assembly members able to vote on the question.

Section 2.11 Prohibitions

(a) Other Public Office or Employment. After December 2, 1971 no elected municipal officer shall hold any other elective public office, municipal office, or municipal employment during his/her term of office, nor shall he/she hold any compensated appointive municipal office or municipal employment for a period of one year after vacating his office, other than

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membership on a board or commission. The relationship of independent contractor for goods or services established through competitive bidding does not constitute municipal employment for the purposes of this section.

(b) Relationship with Employees. The Assembly shall not recommend or direct the appointment or removal of any officer or employee of the municipal administration except as otherwise provided by this Charter. Except for the purpose of inquiry, neither the Assembly nor an individual assembly member may give, either publicly or privately, orders on administrative matters to a subordinate to the administrator.

(c) Representation of Client. No Assembly member may represent any client before any municipal department or agency.

Section 2.12 Investigations

The Assembly may make investigations into the affairs of the municipality and the conduct of any municipality and municipal department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the Assembly shall be guilty of a misdemeanor.

Section 2.13 Clerk and Special Advisors

(a) Clerk. There shall be a Municipal Clerk. The clerk shall attend all Assembly meetings, unless excused, keep the journal of its proceedings, give notice of Assembly meetings to the members and the public and perform such other duties as may be assigned.

(b) Advisors. The Assembly may appoint special legal and financial advisors for bond issues and shall retain such legal counsel as it requires.

(c) Municipal Attorney. There shall be a Municipal Attorney appointed who shall serve at the pleasure of the Assembly.

(d) Boards and Commissions. The Assembly may appoint and establish by ordinance boards and commissions, which ordinance shall prescribe their duties, purpose and functions; also qualifications and condition of service of the appointed members. A quorum of any board or commission, and the number of members required to approve an action, shall be a majority of its membership.

(e) Committee of the Whole. By ordinance the Assembly may create, or designate itself to be a board of review, adjustment or equalization.

2.14 Auditor. The assembly shall provide for an annual independent audit of the accounts and other evidences of financial transactions of the municipality and may provide for more frequent audits as it deems necessary. The audit shall be made by a Certified Public Accountant who has no personal interest, direct or indirect, in the fiscal affairs of the municipality or any of its departments. The audit is the primary responsibility of the assembly, and this responsibility may not be delegated to the administrator/ staff.

Juneau ARTICLE III — ASSEMBLY

Section 3.1. POWERS AND DUTIES. The governing body of the municipality shall be the assembly. The assembly shall exercise the legislative and policy-making powers of the municipality and shall provide for the performance of all duties and obligations imposed upon the municipality by this Charter.

Section 3.2. COMPOSITION. The assembly shall be composed of nine assembly members, one of whom shall be the mayor. (As amended by Serial No. 90-30 § 2 (part), 1990).

Section 3.3. ELIGIBILITY. (a) Only a qualified voter of the municipality, who has been a resident of the

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municipality for at least one year immediately preceding election or appointment to office, shall be qualified for the office of mayor or assembly member. In addition, an assembly member shall be a resident of the district from which elected or appointed at the time of the assembly member's election or appointment. No person who has been elected to the office of mayor or assembly member for three consecutive terms shall again be eligible to hold the office which he or she held for the three consecutive terms until one full year has intervened. Appointment or election to serve the unexpired portion of a term shall not be considered a term for purposes of the limitation provided in this section. The limitation on terms of office provided for in this section shall apply only to terms that begin on or after the certification of the regular election to be held on October 6, 1992.

(b) The assembly shall be the judge of the election and qualifications of its members and of the grounds of forfeiture of their office. For such purposes the assembly shall have power to subpoena witnesses, administer oaths, take testimony, and require the production of evidence. The assembly may enforce these powers by resort to any court of competent jurisdiction.

(c) No assembly member may hold any other compensated municipal office or employment or elected partisan political office while serving on the assembly. (As amended by Serial No. 92-29 § 2, 1992; Serial No. 90-30 § 2 (part), 1990; Serial No. 77-25 § 4, 1977).

Section 3.4. ELECTION AND TERMS OF OFFICE. *(a) The mayor shall be elected from the municipality at large.*

(b) Each other assembly member shall be elected at large by the qualified voters of the municipality and shall be a resident of the district to which the seat they seek is assigned.

(c) The term of office of the mayor and other assembly members shall be three years and shall begin immediately following certification of the election at which they were elected.

(d) No assembly member, other than an incumbent mayor, may be a candidate for mayor unless the assembly member first resigns from the assembly or unless the assembly member's term ends concurrently with that of an incumbent mayor. A candidate for the office of mayor may not be a candidate for another assembly position in the same election. (As amended by Serial No. 90-30 § 2 (part), 1990; Serial No. 84-49 § 4, 1984).

Section 3.5. ORGANIZATION. *The assembly shall meet immediately following certification of the election. At such meeting, or within seven days thereafter, the assembly shall elect from its membership a deputy mayor and do such other acts as may be required for its organization and for the conduct of its business. The assembly shall provide by ordinance for the interim order of succession of its members to the office of deputy mayor.*

Section 3.6. VACANCIES. *(a) The office of an assembly member shall become vacant upon the assembly member's death, resignation, removal from office in any manner authorized by law or by this Charter, by forfeiture of office, or upon a determination in a manner as provided by ordinance that the assembly member is medically incapacitated.*

(b) The assembly by ordinance shall provide for the filling of vacancies on the assembly. Notwithstanding Section 3.12(e) and Section 3.12(f)(1) of this Charter, if at any time the membership of the assembly is reduced to fewer than five members, the remaining members may by majority action appoint additional members to raise the membership to five.

(c) The assembly shall, by ordinance, provide procedures for the declaration of a temporary vacancy in the office of assembly member for medical incapacity and provide for the filling of such a vacancy on a temporary basis. (As amended by Serial No. 90-30 § 3, 1990; Serial No. 77-32 § 4, 1977).

Section 3.7. FORFEITURE OF OFFICE. *(a) The assembly shall declare by resolution of forfeiture upon which the subject thereof shall not vote that the mayor or an assembly member has forfeited office if the mayor or the assembly member:*

(1) Lacks any qualification for the office prescribed by this Charter;

(2) Knowingly and willfully violates any express prohibition of this Charter;

(3) Is convicted of a felony involving moral turpitude and the assembly determines that the crime or the circumstances of its commission are of sufficient magnitude for the mayor or the assembly member to have been shown to be unfit to hold office; or

(4) Fails to attend three consecutive regular meetings of the assembly without being excused by the assembly.

(b) A resolution of forfeiture shall not be passed or be effective unless at least fourteen days prior to assembly consideration of the resolution, the assembly member against whom the resolution is directed shall have received or have had delivered to his or her last known address, written notice of the specific grounds for the resolution and of the time and place when the resolution will be considered by the assembly. The assembly member may demand a public hearing by the assembly on the resolution prior to its adoption, and notice of the time and place

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circulation in the municipality. The date of publication shall be at least seven days prior to the hearing.

(c) A recording, capable of transcription, shall be kept of hearings on a resolution of forfeiture. The record shall be composed of the pleadings and the evidence, including testimony and exhibits presented during the proceedings. The assembly by ordinance shall provide rules governing the conduct of hearings on resolutions of forfeiture. The rules shall provide for the admission of testimony and evidence; the right to call, confront, and cross-examine witnesses; the power of subpoena and subpoena duces tecum; the amount of witness fees and expenses; and the form, extent, and requirements for service and filing of pleadings and exhibits. The rules shall ensure due process of law to all persons involved in the hearing.

(d) Judicial review may be had by filing a complaint within fourteen days of the date of passage of the resolution of forfeiture. The appeal shall be heard by the court sitting without a jury. The court may augment the hearing record in whole or in part or hold a hearing de novo. The court may exercise its independent judgment on the evidence and issues presented by the appeal.

(e) All or so much of the record as is designated by the appellant shall be prepared by the municipal clerk, who will file the original with the court and furnish a copy to the appellant and to the assembly. The court shall not hear the appeal until the costs of preparing the record have been paid to the municipal clerk by the appellant. In determining the appeal the court, if it finds for the appellant, may order that reasonable costs of appeal, including an attorney's fee, be reimbursed to the appellant by the municipality. If the court sustains the resolution of forfeiture, it may order that the appellant pay to the municipality reasonable costs of the appeal, including an attorney's fee. (As amended by Serial No. 90-30 § 4, 1990).

Section 3.8. MAYOR. *The mayor shall perform all duties required by this Charter or by the assembly. The mayor shall be head of the municipality for ceremonial purposes and be recognized by the Governor for purposes of martial law. The mayor shall not have the veto power. The duties of the mayor shall include but not be limited to the following:*

(a) Preside at meetings of the assembly;

(b) Be a member of the assembly with all the powers and duties of that office;

(c) In emergencies, have the powers conferred by law upon peace officers and exercise such powers to prevent disorder, preserve the public peace and health, and to provide for the safety of persons and property. (As amended by Serial No. 90-30 § 5 (part), 1990).

Section 3.9. DEPUTY MAYOR. *The deputy mayor shall succeed to the office of mayor when a vacancy occurs in that office. The deputy mayor shall perform the duties and exercise the powers of the mayor when the mayor is absent or unable, as determined by the assembly, to perform the duties of the office. (As amended by Serial No. 90-30 § 5 (part), 1990).*

Section 3.10. COMPENSATION. *The assembly by ordinance shall provide for compensation of the mayor and other assembly members. An increase in compensation shall not take effect until the assembly meeting following the regular election after the ordinance has been adopted. (As amended by Serial No. 90-30 § 5 (part), 1990).*

Section 3.11. RESTRICTIONS. *The assembly shall not recommend or direct the appointment or removal of any officer or employee of the municipal administration except as otherwise provided by this Charter. Except for the purpose of inquiry, neither the assembly nor an individual assembly member may give either publicly or privately, orders on administrative matters to a subordinate to the manager. (As amended by Serial No. 90-30 § 5 (part), 1990).*

Section 3.12. MEETINGS. *(a) The assembly shall hold at least one regular meeting every month at such time and at such place as it may prescribe.*

(b) The mayor or any three assembly members may call special meetings. At least twenty-four hours before the meeting personal notice shall be given each assembly member designating the time, place, and purpose of a special meeting or written notice shall be left at each assembly member's usual place of residence. At least twenty-four hours before the meeting copies of the notice shall also be delivered to the newspapers of general circulation in the municipality and to the commercial radio and television stations operating in the municipality. No business may be transacted at any special meeting except as stated in the notice of the meeting.

(c) A special meeting at which a state of emergency is declared and identified by the assembly shall be a legal meeting although proper notice may not have been given of the meeting.

(d) All meetings of the assembly shall be public and the public shall have reasonable opportunity to be heard. The assembly may recess a meeting or proceeding for the purpose of discussing in a closed or executive session any matter the immediate knowledge of which would adversely affect the finances of the municipality or would defame

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is expressed in the motion calling for such session, and that action thereon shall not be taken by the assembly in executive session. The mere discussion of persons or finances shall not be cause for an executive session. An assembly member who calls for an executive session in violation of the provisions of this section shall be deemed to have acted in violation of this Charter.

(e) Five members of the assembly shall be a quorum for the transaction of business. In the absence of a quorum, any number less than a quorum may adjourn a meeting to a later date.

(f) (1) The prevailing vote of at least five members shall be required for official action by the assembly unless otherwise provided by this Charter except that the prevailing vote of at least four members shall be sufficient when two or more members who are present are prohibited by this Charter from voting or have been excused from voting under (f)(3) of this section.

(2) The vote upon all matters considered by the assembly shall be taken by "Yes" or "No" votes which shall be entered upon the record except, where the vote is unanimous, it shall be necessary only to so state.

(3) Unless otherwise prohibited by this Charter, each assembly member present shall vote on each question before the assembly for determination, unless excused by the affirmative vote of all remaining members able to vote on the question.

(g) The assembly shall determine its own rules governing the order of business and conduct of its members and shall keep a journal of all its proceedings. The journal of each meeting of the assembly shall be signed by the clerk and countersigned by the mayor. (As amended by Serial No. 90-3 § 6, 1990; Serial No. 77-30 § 4, 1977).

Section 3.13. ATTORNEY. *The assembly shall appoint the municipal attorney.*

Section 3.14. PERSONNEL SYSTEM. *The assembly shall appoint members of a personnel board, and by July 1, 1971, the assembly by ordinance shall provide a comprehensive personnel system, including but not limited to regulating all appointments, promotions, demotions, suspensions, and removals of municipal officers and employees on the basis of merit.*

Section 3.15. HOSPITAL BOARD. *The assembly shall appoint members of a board of directors for municipally operated hospitals. Notwithstanding the provisions of Section 3.16 of this Charter, the board shall derive its authority and power from the assembly by ordinance.*

Section 3.16. OTHER BOARDS. *(a) The assembly by ordinance may create other quasi-legislative, quasi-judicial, or advisory boards and the assembly may appoint the board members or prescribe the method of appointment or removal.*

(b) The assembly may grant to boards the power to conduct hearings and make recommendations or decisions. All recommendations or decisions shall be promptly filed with the clerk as a matter of public record. Board decisions shall become final unless notice of an appeal to the assembly is filed with the clerk within twenty days of the date on which the board decision was filed. Board decisions may be appealed to the assembly by any party affected by the proceedings, by a member of the assembly, or by a municipal officer or employee.

(c) All questions presented to the assembly concerning any subject which has been delegated to a board shall be submitted first to the board for consideration unless the assembly shall otherwise determine.

(d) Boards shall not be authorized to employ or remove or direct the employment or removal of any municipal officer or employee, except that the personnel board may determine all questions as required by the personnel regulations adopted by the assembly.

(e) The prevailing vote of a majority of the members of a board shall be required for official action except that the prevailing vote may be reduced by one vote for every two members of the board who are present but who do not vote because they have a conflict of interest or have been excused from voting by a vote of all the remaining members who may vote on the question, except that the prevailing vote required may not be reduced to a number less than one-third the membership on the board. A quorum of a board shall consist of a majority of the full membership.

(f) Board meetings shall be conducted as provided for the assembly in Section 3.12(d) of this Charter. (As amended by Serial No. 77-31 § 4, 1977).

Section 3.17. ORDINANCE VIOLATIONS. *(a) The assembly may prescribe such penalties or combination of penalties as it determines are appropriate for the violation of ordinances and the Charter.*

(b) Assembly legislation relating to alcoholism and public drunkenness shall emphasize treatment and prevention rather than imprisonment or levy of fines. To help formulate policy for this purpose, the assembly shall establish a community advisory board on prevention and treatment of alcoholism. (As amended by Serial No. 84-47 § 3, 1984).

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Section 3.18. OMBUDSMAN. The assembly by ordinance may establish the office of ombudsman as a part of the legislative-branch of the municipality.

Section 3.19. RESTRICTION ON ASSEMBLY AUTHORITY. The assembly may not sponsor, petition, propose, recommend, refer or otherwise act in any way to provide for a change of the Pacific Time Zone applying to the area of the municipality. An ordinance, resolution, motion, order or other legislative authority in effect on the effective date of this section and inconsistent with this section, including but not limited to Resolution 569 of the city and borough of Juneau, Alaska, is of no effect. Promptly upon the effective date of this section, the assembly shall give notice to the United States Department of Transportation of the adoption of this section and shall petition the department for reconsideration of any decision which alters the Pacific Time Zone applying to the area of the municipality. (Adopted by the voters on March 28, 1980, special election).

Section 3.20. SKI AREA BOARD. The assembly shall appoint members of a board of directors for the municipally-operated ski area. Notwithstanding the provisions of Section 3.16 of this Charter, the board shall derive its authority and power from the assembly by ordinance. (Adopted by the voters on October 6, 1981, regular election).

Section 3.21. DOCKS AND HARBORS BOARD. The assembly may establish a board of directors for the municipally-owned or operated docks and harbors and appoint members to the board. Notwithstanding the provisions of Section 3.16 of this Charter, the board shall derive its authority and power from the assembly by ordinance. (Adopted by the voters on October 2, 1984, regular election).

Section 3.22. AIRPORT BOARD. The assembly may establish a board of directors for the municipal airport and appoint members to the board. Notwithstanding the provisions of Section 3.16 of this Charter, the board shall derive its authority and power from the assembly by ordinance. (Adopted by the voters on October 1, 1996, regular election).

ARTICLE III LEGISLATION

Section 3.01 Action Required By Ordinance.

In addition to other acts required by law or by this Charter to be done by ordinance, those acts of the Assembly shall be done by ordinance which:

- (a) Adopt or amend an administrative code;**
- (b) Provide for a fine or other penalty or establish a rule or regulation for the violation of which a fine or other penalty is imposed;**
- (c) Levy taxes, except the Assembly may, by resolution or ordinance, establish the mill levy on which property taxes shall be collected;**
- (d) Grant, renew, or extend a franchise;**
- (e) Establish the rates charged by the municipal utilities except as provided in paragraph 8.02(c)(2);**
- (f) Authorize the borrowing of money;**
- (g) Establish procedures for the conveyance, disposition, or lease of real and personal property of the municipality;**
- (h) Propose amendments to this Charter;**
- (i) Adopt, with or without amendment, ordinances proposed under initiative powers;**
- (i) Fix the wages and benefits of members of the Assembly;**

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- (k) Adopt, modify, or reject the comprehensive plan, land use or subdivision regulations, building and housing codes, and the official map;
- (l) Amend or repeal any ordinance previously adopted except as otherwise provided in Article VI with respect to repeal of ordinances reconsidered under the referendum power;
- (m) Establish a formal procedure for acquisition from the state of land or rights in land and disposal of those lands or rights in land;
- (n) Authorize any contract, other than a contract for the purchase, sale, conveyance, disposition, or lease of real property, which by its terms will not be fully executed within five years and which cannot be terminated by the municipality without penalty upon notice of thirty (30) days or less.

Section 3.02 Ordinances - General.

Except as otherwise provided in this Charter, the following procedure shall govern the enactment of all ordinances:

- (a) **Enacting Clause.** The enacting clause of all ordinances passed by the Assembly shall be, "Be it ordained by the Assembly of the municipality of Ketchikan, Alaska", or similar words to that effect, and of all ordinances proposed by the voters under their power of initiative, "Be it ordained by the People of the municipality of Ketchikan, Alaska", or similar words to that effect;
- (b) **Readings.** A proposed non-emergency ordinance shall be read in full or by title only, and an affirmative vote of a majority of the Assembly shall be required for advancing to second reading. A non-emergency ordinance in which substantive amendments are made in first reading shall require an additional reading before passing to final reading. Before a vote on final passage, a proposed non-emergency ordinance shall be read by title or in full and an affirmative vote of a majority of the Assembly shall be required for its final passage;
- (c) **Passage, Publication, and Effective Date.** No ordinance, except an emergency ordinance, may be finally passed on the same day that it is introduced. Within ten days after its final passage, every ordinance shall be published in a newspaper of general circulation within the municipality. Publication shall be in full or by number and title with a brief summary. Emergency ordinances and ordinances making, repealing, transferring, or otherwise changing appropriations shall go into effect immediately upon such final passage unless they specify a later time. All other ordinances shall go into effect thirty (30) days after such final passage unless the ordinance specifies otherwise.

Section 3.03 Ordinances - Emergency.

An emergency ordinance is an ordinance which, in the judgment of the Assembly, is necessary for the immediate preservation of the public peace, health, or safety, and which should become effective immediately without a second reading. Every such ordinance shall contain, as a part of its title, the words, "and declaring an emergency"; and in a separate section, herein called the emergency section, shall declare the emergency. An affirmative vote of at least five members of the Assembly shall be required for the final passage of an emergency ordinance.

Section 3.04 Ordinances - Adoption by Reference.

The Assembly, by ordinance, may adopt by reference codes, ordinances, standards, and regulations relating to matters which it has power to regulate otherwise. Such code, ordinance, standard, or regulation so adopted need not be enrolled in the book of ordinances; but a copy shall be filed and kept in the office of the clerk. The clerk shall keep copies of all such codes,

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cost.

Section 3.05 Ordinances - Codification.

The ordinances shall be codified and published in book or pamphlet or kept up to date in a loose-leaf system. Titles, enacting clauses, and emergency sections may be omitted from the code and temporary and special ordinances and parts of ordinances may be omitted. Permanent general ordinances and parts of ordinances which are to be repealed by the code shall be omitted from the code. The ordinances and parts of ordinances included in the code may be revised, rearranged, corrected for clerical errors, and reorganized and the code may contain new matter and provisions of the state constitution and law applicable to the municipality and this Charter. A copy of the code shall be filed and kept in the office of the clerk after adoption, but the code need not be enrolled in the book of ordinances.

***Haines* ARTICLE III LEGISLATION**

Section 3.01 Legislative Body

The Haines Borough Assembly shall be the sole lawmaking body of the Haines Borough, creating and adopting any and all new borough laws and amendments, or repealing laws and amendments.

Section 3.02 Introduction and Enactment of Ordinances

(A) Introduction. An ordinance shall be introduced in writing in the form required by assembly rule. An ordinance may be introduced by an assembly member or the borough mayor at a regular or special meeting of the assembly.

(B) Notice and Hearing. Upon approval of four assembly members, the clerk shall publish a notice containing the text or a summary of the ordinance, the time and place for a public hearing, and where copies of the ordinance are available.

The public hearing shall be held seven or more days following publication of the notice.

(C) Enactment. A simple majority vote of the total membership of the assembly may pass an ordinance. An ordinance takes effect upon adoption or at a later date specified in the ordinance. An adopted ordinance must be placed in the form required by borough code. Ordinances shall be attested by the borough clerk and by the mayor.

Section 3.03 Actions Requiring an Ordinance

In addition to other actions that require an ordinance, the assembly shall use ordinances to take the following actions:

- (1) adopt or amend administrative code;*
- (2) levy taxes;*
- (3) authorize borrowing of money;*
- (4) grant, renew or extend a franchise;*
- (5) regulate the rate charged by a public utility, when such regulation is consistent with Alaska Statutes;*
- (6) provide for a fine or other penalty or establish a rule or regulation for the violation of which a fine or other penalty is imposed;*
- (7) adopt, amend or repeal the comprehensive plan, land use and subdivision regulations, building and housing codes or similar land use control measures;*
- (8) sell, convey, or lease--or authorize the sale, conveyance, or lease--of any interest in lands and real property of the borough, in accordance with requirements of the comprehensive plan;*
- (9) exempt contractors from compliance with general requirements relating to payment and performance bonds in the construction or repair of municipal public works projects within the limitations set out in Alaska Statute;*
- (10) establish, alter, or abolish municipal departments;*
- (11) establish, alter, consolidate, or abolish service areas;*
- (12) make appropriations, including supplemental appropriations or transfer*

appropriations.

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- (13) provide for the retention or sale of tax-foreclosed property;
- (14) transfer powers from the borough to another municipality.

Section 3.04 Emergency Ordinances

To meet a public emergency affecting life, health, welfare, or property, the assembly may introduce and adopt emergency ordinances at the same meeting.

A reasonable attempt shall be made to notify the mayor and all assembly members immediately upon introduction of an emergency ordinance.

An emergency ordinance shall contain a finding that an emergency exists and shall state the facts constituting the emergency.

An emergency ordinance is adopted upon the affirmative vote of all members present, or a supermajority of the total membership, whichever is less.

An emergency ordinance is repealed by resolution or automatically expires in sixty days.

Section 3.05 Adoption by Reference

The assembly by ordinance may adopt by reference a standard code of regulations or a portion of the Alaska Statutes. The matter adopted by reference shall be made available to the public in a manner prescribed by ordinance.

Section 3.06 Codification

The assembly shall provide for indexing and codification of all permanent ordinances adopted by the assembly. Following preparation of the initial Haines Borough Code, all proposed permanent ordinances shall be adopted as amendments or additions to the code.

Sitka ARTICLE III LEGISLATION

Section 3.01 Action Requiring an Ordinance. In addition to other acts required by law or by this Charter to be done by ordinance, those acts of the Assembly shall be done by ordinance which:

- (1) Adopt or amend an administrative code or establish, alter, or abolish any municipal department, office or agency.
- (2) Provide for a fine or other penalty or establish a rule or regulation for the violation of which a fine or other penalty is imposed.
- (3) Levy taxes or establish service areas.
- (4) Grant, renew or extend a franchise.
- (5) Regulate, not to exceed the amount permitted by state law, the rates charged by a municipal or other public utility.
- (6) Authorize the borrowing of money.
- (7) Convey or lease or authorize the conveyance or lease of any lands of the municipality.
- (8) Propose amendments to this Charter.
- (9) Adopt with our without amendment ordinances proposed under initiative powers.
- (10) Fix the compensation of members of the Assembly.
- (11) Make supplemental appropriations or transfer appropriations as provided in Sections 11.10 and 11.11.
- (12) Adopt or modify the official map, platting, or subdivision controls or regulations, or the zoning plan.
- (13) Amend or repeal any ordinance previously adopted except as otherwise provided in Section 6.01 with respect to repeal of ordinances reconsidered under the referendum power.
- (14) Establish a formal procedure for acquisition from the state of land or rights in land and disposal of those lands or rights in land.

Section 3.02 Ordinances in General.

- (a) Enactment Procedure. Except as otherwise provided in this Article, the

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ordinance may be introduced by any member of committee of the Assembly at any regular or special meeting of the Assembly. Upon introduction of any ordinance, sufficient copies shall be furnished to the Clerk in order for him/her to immediately distribute at least one copy each to the Assembly members. After an ordinance has been introduced, and unless it is rejected at the same meeting by the affirmative votes of not less than a majority of the Assembly members, the Assembly shall promptly cause the ordinance to be published, together with a notice setting out the time and place for a public hearing on the ordinance and for its consideration by the Assembly. The public hearing on any ordinance not rejected shall follow the required publication by at least seven days and it may be held separately or in connection with a regular or special Assembly meeting and may be adjourned from time to time. At the public hearing held in accordance with the notice, copies of the ordinance shall be distributed to all persons present who request them, and the ordinance shall be read in full, if requested by an Assembly member present at the meeting. All persons interested shall have an opportunity to be heard. After the hearing, the Assembly shall consider the ordinance and may adopt it with or without amendment, or reject it. But if upon consideration, the Assembly amends the ordinance as to its substance, it may not adopt the amended ordinance until the ordinance or its amended sections have been published and until the ordinance has been subjected to hearing and to all other procedures required in the case of a newly introduced ordinance. The same procedure shall govern if the amended ordinance is again amended as to its substance.

(b) Effective Date. Except as otherwise provided in this Article, every adopted ordinance shall become effective at the expiration of 30 days after adoption or at any date specified in the ordinance.

(c) Meaning of "Publish". As used in this section, the term "published" means that:

- (1) At least the title, which shall be a brief summary of the ordinance or sections concerned, together with any required notice, has been published in one or more newspapers of general circulation in the municipality;
- (2) Copies of the ordinance or sections concerned, together with any required notice, have been mailed or faxed to the same newspapers and, in accordance with Assembly regulations, to additional newspapers of general circulation in the municipality;
- (3) Copies of the ordinance or section concerned, together with any required notice, have been posted conspicuously for public inspection.

Section 3.03 Emergency Ordinances.

To meet a public emergency affecting life, health, welfare or property, the Assembly may adopt emergency ordinances; but emergency ordinances shall not be used to levy taxes, to grant, renew or extend a franchise, to acquire or dispose of property, or to regulate the rate charged by any public utility for its services.

Every emergency ordinance shall be designated as such and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing the emergency in specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is presented. The affirmative votes of at least five Assembly members shall be required for adoption of an emergency ordinance. After adoption of an emergency ordinance, the Assembly shall have it printed as prescribed for other adopted ordinances. An emergency ordinance shall become effective upon adoption or as otherwise provided in the ordinance. An emergency ordinance shall expire 61 days after the adoption but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists.

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Section 3.04 Codes of Technical Regulations

The Assembly may adopt any standard code of technical regulations, or may adopt the provisions of any portion of the statutes of the State of Alaska by reference thereto in an adopting ordinance, provided that the matter adopted by reference is made available to the public in the manner prescribed by Assembly rule.

Section 3.05 Administrative Code

The Assembly shall adopt by ordinance an administrative code which shall include provisions for establishing qualifications for employment and a merit system; establishing a pay plan for all municipal positions; permitting appeal; recognizing employee organizations; protecting municipal employees from arbitrary discharge and safe guarding against nepotism.

Section 3.06 Authentication and Recording; Codification; Printing

(a) Authentication and Recording. The Mayor and Clerk shall authenticate, as ministerial acts, by signature and date all ordinances and resolutions adopted by the Assembly and cause them to be bound or recorded in full in properly indexed books, one of which shall be open to the public in the Clerk's office during business hours.

(b) Codification. Within two years of the effective date of this Charter the Assembly shall cause a code to be prepared containing all of the ordinances of the municipality which are appropriate for continuation as law. The code shall be kept current through integration of ordinances and resolutions adopted.

(c) Printing. The Assembly with the advice and assistance of the legal counsel shall cause each ordinance and resolution having the force and effect of law and each amendment to this Charter to be printed as promptly as possible following its adoption; each of these to be made available to the public at a reasonable price set by the Assembly.

Juneau ARTICLE V — LEGISLATION

Section 5.1. ORDINANCES. Each proposed ordinance shall be introduced in writing and in the form required by the assembly. The subject of each ordinance shall be expressed in its title. Each ordinance shall be confined to one subject unless it is an ordinance establishing a budget or one codifying, revising or rearranging existing ordinances. Ordinances establishing budgets shall be confined to such subject.

Section 5.2. ACTIONS BY ORDINANCE. In addition to other actions required by this Charter, those actions of the assembly shall be by ordinance which:

- (a) Establish, alter or abolish any municipal department;*
- (b) Provide for a fine or other penalty, or establish a rule or regulation for violation of which a fine or other penalty is prescribed;*
- (c) Grant, renew, or extend a franchise;*
- (d) Regulate the rate charged for its services by any public utility;*
- (e) Establish procedures for acquisition and disposal of lands or rights in lands, including but not limited to requirements for public notice and competitive bidding;*
- (f) Adopt or modify the official map, platting or subdivision controls or regulations, or zoning controls;*
- (g) Propose a sales or use tax;*
- (h) Add an areawide service.*

Section 5.3. ORDINANCE PROCEDURE. (a) An ordinance may be presented for consideration only by a member or committee of the assembly or by the manager at any regular or special meeting of the assembly. Upon presentation of an ordinance, copies shall be furnished to each assembly member and to the manager. Upon presentation, an ordinance shall be rejected, deferred, referred to committee, or accepted as being introduced. Promptly after introduction the assembly shall publish the ordinance and a notice setting out the time and place for a public hearing on the ordinance. The public hearing on an ordinance shall follow publication by at least

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the public hearing copies of the ordinance shall be distributed to all persons present who request them or, in the alternative, the ordinance shall be read in full. All persons shall have an opportunity to be heard. If the ordinance is amended after the hearing as to any matter of major substance, the ordinance shall be treated as a newly-introduced ordinance.

(b) Except as otherwise provided in this Charter, every adopted ordinance shall become effective at the expiration of 30 days after adoption or at any later date specified in the ordinance, provided, however, ordinances establishing budgets, fixing mill levies or appropriating funds shall become effective upon adoption unless a later date is specified in the ordinance.

(c) As used in this section, the term publish means that:

(1) As a minimum, a summary of the ordinance and the notice of hearing shall be published in a newspaper of general circulation in the municipality;

(2) Copies of the ordinance and notice of hearing shall be delivered to the newspapers of general circulation in the municipality and to the commercial radio and television stations operating in the municipality;

(3) Copies of the ordinance shall be made available at the clerk's office for public inspection and for distribution at such reasonable price as the assembly may direct. (As amended by Serial No. 77-33 § 4, 1977).

Section 5.4. EMERGENCY ORDINANCES. (a) To meet a public emergency, the assembly may adopt emergency ordinances; but emergency ordinances shall not be used to levy taxes; to grant, renew, or extend a franchise; to acquire or dispose of property; or to regulate the rate charged by any public utility for its services.

(b) Every emergency ordinance shall be designated as such and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing the emergency in specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is presented. The affirmative votes of at least six assembly members shall be required for adoption of an emergency ordinance. After adoption of an emergency ordinance the assembly shall have it printed and published as prescribed for other adopted ordinances. An emergency ordinance shall become effective upon adoption or as otherwise provided in the ordinance. An emergency ordinance shall expire ninety days after adoption, unless a different date not to exceed one hundred and eighty days after adoption is fixed by the assembly in the ordinance.

Section 5.5. CODES OF TECHNICAL REGULATIONS. The assembly may adopt by reference any standard published code of technical regulations, or portion thereof, in a single ordinance. Upon introduction of the ordinance, the assembly shall promptly cause a copy of the standard published code to be provided to each member of the assembly, at least five copies to be made available for public inspection at the office of the clerk, and sufficient additional copies of the code to be made available to the public at such reasonable price as the assembly may direct. The requirements provided in Section 5.3 of this Charter shall apply, except that the code of technical regulations need not be published, included with copies of the ordinance required at the public hearing, or read at the public hearing.

Section 5.6. SIGNATURE. Each ordinance shall be signed by the mayor or presiding officer at its adoption and attested by the clerk.

Section 5.7. CODIFICATION. (a) After adoption each ordinance and resolution promptly shall be given a serial number. The serial number, date of adoption and designation of adopting authority shall appear on the adopted ordinance or resolution, which shall be entered by the clerk of the assembly in a properly indexed book kept for that purpose.

(b) A general codification of all ordinances and resolutions of general effect shall be adopted and shall be kept current through integration of ordinances and resolutions as adopted.

(c) The assembly promptly shall have each adopted ordinance and resolution printed and a notice of each adopted ordinance and resolution published. The printed ordinances and resolutions shall be made available to the public at such reasonable price as the assembly may direct.

Section 5.8. OFFICIAL COPY. The record of any official proceeding of the municipality or of any ordinance, resolution or code provision may be placed in evidence in any court or tribunal by introduction of a copy thereof certified by the clerk under the seal of the municipality as a true copy of the original.

ARTICLE IV: MUNICIPAL MANAGER AND ADMINISTRATIVE DEPARTMENTS

Section 4.01 Municipal Manager: Appointment, Term, Qualifications, Removal.

There shall be a municipal manager appointed by the Assembly who shall serve at the pleasure of the Assembly. At the time of appointment, the manager need not be a resident of the municipality, but during the manager's tenure of office, the manager shall reside within the municipality. Neither the mayor nor any assemblymember may be appointed manager during the term for which the member was elected. The Assembly may suspend or remove the manager at any time by a vote of a majority of the assemblymembers.

Section 4.02 Municipal Manager: Powers and Duties.

The manager shall be the chief administrative officer and head of the administrative branch of the municipal government. The manager shall execute the laws and ordinances and administer the government of the municipality. he manager shall:

- (a) **Hire and Remove Employees.** Appoint, lay off, suspend, demote, or remove all directors or heads of administrative departments and all other officers and employees of the municipality, except personnel in the department of law, the clerk's office, school district, and employees appointed by the Assembly or their subordinates, provided the manager may delegate this power and duty to directors or heads of departments and other administrative officers;
- (b) **Supervise Departments.** Supervise and control all administrative departments, agencies, officers, and employees appointed by the manager or by agencies and officers subordinate to the manager;
- (c) **Prepare Budgets.** Prepare a budget annually for the general government, excluding the municipal utilities and schools, and submit it to the Assembly, be responsible for the administration of the budget after it goes into effect, and recommend to the Assembly any changes in the budget which the manager deems desirable;
- (d) **Report.** Submit to the Assembly a report as of the end of the fiscal year on the finances and administrative activities of the municipality for the preceding year;
- (e) **Make Recommendations.** Keep the Assembly advised of the financial condition and future needs of the municipality and make recommendations on policy and other matters;
- (f) **Perform Other Duties.** Perform such other powers, duties, and functions as the Charter may prescribe and such powers, duties, and functions consistent with this Charter as the Assembly may prescribe.

[Sitka Alternative] ARTICLE IV ADMINISTRATOR -- EXECUTIVE

Section 4.01 Appointment, Qualifications, Compensation

The Assembly shall appoint a Municipal Administrator for an indefinite term and fix his compensation. The Administrator shall serve at the pleasure of the Assembly and be appointed solely on the basis of his executive and administrative qualifications. He/she need not be a resident of the municipality or state at the time of his/her appointment.

Section 4.02 Removal; Suspension

The Assembly may remove the Administrator from office in accordance with the following procedures:

- (a) **Preliminary Resolution.** The Assembly shall adopt by affirmative vote of a majority of its members a preliminary resolution which must state the reasons for removal; and may suspend the Administrator for a period of not to exceed 30 days. A copy of the resolution shall be delivered promptly to the Administrator.
- (b) **Public Hearing.** Within 5 days after a copy of the resolution is delivered, the Administrator may file with the Assembly a written request for a public hearing. The hearing shall be held at an assembly meeting not earlier than 10 days or later than 20 days after the request is filed. The Administrator may file with the Assembly a written reply not later than 5 days before the hearing.

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hearing, the Assembly may adopt a final resolution of removal, which may be made effective immediately, by an affirmative vote of a majority of its members, at any time after five days from the date when a copy of the preliminary resolution was delivered to the Administrator. If a public hearing is requested, final resolution may be adopted any time thereafter.

(d) Continuation of Salary. The Administrator shall continue to receive his/her salary until the effective date of a final resolution of removal. The action of the Assembly shall not be subject to review by any court or agency.

Section 4.03 Acting Municipal Administrator

If the Administrator is absent from the municipality or is unable to perform his/her duties; if the Assembly suspends the Administrator; or if a vacancy in the office of the administrator, the Assembly may appoint an acting administrator to serve until the Administrator returns, until his disability or suspension cease, or until another Administrator is appointed. The Assembly shall replace the acting administrator with a permanent administrator within a reasonable time, and in no case may he/she serve as acting administrator for more than one year.

Section 4.04 Powers and Duties of Administrator

The Administrator shall be the Chief Administrative Officer of the municipality and shall be responsible to the Assembly. He/she shall execute the provisions of this Charter, all ordinances of the municipality and all applicable laws. Without limiting the foregoing or excluding other or broader powers consistent therewith, the Administrator shall:

- (1) Except as otherwise provided by this Charter, with the approval of the Assembly appoint or remove all heads of administrative departments, subject to such personnel regulations as the Assembly may adopt;
- (2) Direct the care and custody of all municipal property;
- (3) Direct and supervise the construction, maintenance and operation of municipal public works;
- (4) Prepare from departmental submission annual budget and capital improvements program and submit them to the Assembly;
- (5) Keep the Assembly fully advised on the financial condition and needs of the municipality;
- (6) At the beginning of each fiscal year, submit to the Assembly a report on the financial and administrative activities of the municipality for the preceding fiscal year;
- (7) Unless excused, attend all Assembly meetings and shall have the right to take part in the discussion of all matters, but may not vote.

***[Juneau Alternative]* ARTICLE IV — EXECUTIVE**

Section 4.1. MANAGER. There shall be a manager of the municipality. The assembly shall appoint the manager. The assembly may enter into a term contract with a manager. (As amended by Serial No. 90-30 § 7 (part), 1990).

Section 4.2. QUALIFICATIONS. The manager shall be appointed solely on the basis of executive and administrative qualifications, with particular reference to education, training, and experience as a professional municipal administrator. The assembly by ordinance may set forth specific qualifications. No member of the assembly may be appointed manager unless at least two years have intervened since the expiration of the assembly member's last term on the assembly and the date of appointment. (As amended by Serial No. 90-30 § 7 (part), 1990).

Section 4.3. SUSPENSION OR REMOVAL. The assembly may suspend or remove the manager at any time.

Section 4.4. ACTING MANAGER. If the manager is absent from the municipality or is unable to perform the manager's duties, if the assembly suspends the manager, or if there is a vacancy in the office of manager, the assembly may appoint an acting manager to serve until the manager returns, until the manager's disability or

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permanent manager within a reasonable time, and in no case may an acting manager serve as such for more than one year. An assembly member may serve as acting manager but first must resign from the assembly. (As amended by Serial No. 90-30 § 7 (part), 1990).

Section 4.5. POWERS AND DUTIES. The manager shall be chief administrative officer of the municipality and shall be responsible to the assembly. The manager shall execute the provisions of this Charter, all ordinances of the municipality, and all applicable laws. Without limiting the foregoing or excluding other or broader powers consistent therewith, the manager shall:

- (a) Appoint or remove all heads of administrative departments and, subject to such personnel regulations as the assembly may adopt, other municipal employees. The manager may authorize any administrative officer to appoint or remove subordinates in the officer's department, subject to such personnel regulations as the assembly may adopt;
- (b) Direct the care and custody of all municipal property;
- (c) Direct and supervise the construction, maintenance, and operation of municipal public works;
- (d) Prepare and submit the annual budget and capital improvements program to the assembly;
- (e) Keep the assembly fully advised on the financial condition and fees of the municipality;
- (f) At the beginning of each fiscal year, submit to the assembly a report on the financial and administrative activities of the municipality for the preceding fiscal year; within three months after the end of each fiscal year, prepare and make available to the public, at such reasonable price as the assembly may direct, an annual report on municipal affairs during the preceding fiscal year. (As amended by Serial No. 90-30 § 7 (part), 1990).

Section 4.6. ASSEMBLY MEETINGS. The manager shall have the right to take part in the discussion of all matters coming before the assembly.

[Haines Alternative] ARTICLE V EXECUTIVE BRANCH

Section 5.01 The Office of the Mayor

- (A) *Term.* The mayor is elected at-large for a three-year term.
- (B) *Qualifications.* A candidate for the office of mayor:
 - (1) shall be a qualified voter of Haines Borough; and
 - (2) shall be a resident of Haines Borough for at least one-year immediately preceding his election.
- (C) *Residency.* If the person holding the office of mayor establishes residency outside the Haines Borough, he shall immediately forfeit the position.
- (D) *Compensation.* The compensation of the Mayor shall be fixed by the assembly and may not be reduced during his term of office without his consent.
- (E) *Deputy mayor.* The mayor shall designate one assembly member to serve as deputy mayor in his absence. If the office of mayor is declared vacant, the deputy mayor may be sworn in as mayor until the next regular or special election.

Section 5.02 Powers of the Mayor

- (A) *Executive.* The executive power of the Haines Borough is vested in the mayor. The mayor presides at assembly meetings, acts as ceremonial head of the Haines Borough, and is responsible for additional duties and powers prescribed by this charter or borough code. The mayor may participate in all assembly meeting discussions, chairing the meetings, but shall vote only in case of a tie.
- (B) *Representative.* The mayor shall execute official documents of the Haines Borough on authorization of the assembly.
- (C) *Veto.* The mayor may veto an ordinance, resolution, motion, or other action of the assembly and may strike or reduce appropriation items. The veto does not extend to:
 - (1) actions of the board of equalization or the board of adjustment;
 - (2) the appointment or dismissal of personnel;
 - (3) adoption or repeal of a manager plan of government;
 - (4) an ordinance adopted under AS 04.11.498.

The veto must be exercised and submitted to the assembly with a written explanation prior to or at the next assembly meeting. The assembly, by supermajority vote of the total membership, may override a veto any time within twenty-one days after its exercise. The mayor's failure to sign a legislative measure shall not constitute a veto.

- (D) *Law enforcement.* In case of emergency, the mayor has the power of a peace officer and

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preserve the public health. The assembly by resolution may declare that the emergency no longer exists.

Section 5.03 Borough Manager

The Haines Borough operates under the manager form of government; any repeal of the manager form of government must be done by ordinance ratified by the voters of the borough at a regular or special election.

(A) *Qualifications.* The assembly shall appoint the manager as chief administrative officer, who serves at the pleasure of the assembly. The manager is selected solely on the basis of professional qualifications.

(B) *Appointments.* The manager is chief personnel officer and shall appoint all heads of borough departments not administered by boards, except for borough officers. All appointments and dismissals of department heads are subject to confirmation by the assembly.

(C) *Responsibilities.* The manager is responsible to the assembly for the overall conduct of the administrative functions of the borough. The borough manager may direct municipal officers and department heads in accordance with policies and procedures adopted by the assembly. The borough manager is responsible for additional duties and powers prescribed by this charter or borough code.

Section 5.04 Officers and Staff

The officers appointed by the assembly shall serve at the pleasure of the assembly and work under the direct supervision of the manager. All staff members are subject to the direction and supervision of the borough manager.

Section 5.05 Administrative Procedures in Borough Code

The Assembly by ordinance shall adopt provisions regarding:

(A) The methods of appointment and dismissal of borough officers and other personnel;

(B) the powers, duties, and limitations of borough officers and the assembly in regard to personnel matters;

(C) the identity, function, and responsibility of each executive department and agency;

(D) rules of practice and procedure governing administrative proceedings;

(E) personnel policy and rules regarding employee evaluations for promotions and raises according to merit.

Section 5.06 Boards

(A) *Types of boards.* The assembly by ordinance may provide for advisory, regulatory, administrative, appellate or quasi-judicial boards or commissions. The ordinance shall prescribe the duties, terms and qualifications of members.

(B) *Membership.* The mayor appoints the members of boards and commissions, unless otherwise specifically provided in this charter. Appointments are subject to confirmation by the assembly. Persons appointed by the mayor serve at the pleasure of the mayor.

(C) *Advisory role.* Boards and commissions may make recommendations to the assembly, the mayor, the manager, and heads of executive departments on matters specified in the ordinance creating the board or commission.

(D) *The assembly as quasi-judicial board.* The Assembly by ordinance may designate itself to be a board of review, adjustment, or equalization. The ordinance shall prescribe the rules of procedure, including quorum and voting requirements. Any judgment made by the assembly or board acting in a quasi-judicial capacity must be carried by at least a supermajority vote of the entire assembly or board.

ARTICLE V: NOMINATIONS - ELECTIONS

Section 5.01 General Requirements.

(a) **Regular Elections.** A regular election shall be held on the first Tuesday in October of every year.

(b) **Special Elections.** The Assembly, by ordinance or resolution, may call special elections and submit questions to the voters.

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submit questions to the voters at a special election or at a regular election. Questions may also be submitted at elections as provided for in other sections of this Charter.

(d) **Notice** The clerk shall publish, in full in a newspaper of general circulation within the municipality, every charter amendment and every ordinance and every other question which is to be submitted to the voters at an election for approval or enactment, except a referred ordinance which was published in full after passage, not more than six weeks and at least three weeks before the election at which it is to be submitted.

(e) **Canvassing Returns - Certificates of Election.** The Assembly shall canvass the returns of all municipal elections, regular and special, and shall ascertain and declare the results thereof, provided that the Assembly may delegate this function to a board created by ordinance. The clerk shall promptly prepare, sign, and issue certificates of election, sealed with the seal of the municipality, to all persons elected to office.

(f) **Laws Governing Elections.** The provisions of law applicable to municipal elections shall govern elections of this municipality insofar as they are not superseded by this Charter or by ordinance.

[Sitka Alternative] **ARTICLE V NOMINATIONS -- ELECTIONS**

Section 5.01 General Requirements

(a) **Regular Elections.** A regular election shall be held annually on the first Tuesday in October.

(b) **Special Elections.** The Assembly shall provide by ordinance for special elections.

(c) **Notice of Elections.** At least 30 days published notice shall be given of a regular or special election. The notice shall state the purpose of the election.

(d) **Qualifications of Voters.** To be eligible to vote at any municipal election, at the time of the election a person shall be:

(1) Qualified to vote in state elections;

(2) A resident of the municipality for at least 30 days immediately preceding the election.

(e) **Nomination.** Candidates for elective office shall be nominated by a petition signed by at least 25 qualified voters of the municipality. All nomination papers comprising a petition shall be assembled and filed in person with the Clerk during office hours as one instrument not earlier than 90 or later than 35 days before the election. No nominated petition may be accepted unless accompanied by a signed acceptance of nomination. (Amended 10-12-83).

(f) **Election Procedures.** All elections shall be nonpartisan. The Assembly shall prescribe the general rules for the conduct of municipal elections as set forth by the Alaska Election Code.

(g) **Determination of Election Results.** The candidates for assembly receiving the greatest number of votes shall be declared elected to vacancies. In case of a tie, the election shall be determined by lot from among the candidates tying, at a meeting of the assembly and under its direction. However, starting in the year 2000, if no candidate for mayor receives more than forty percent (40%) of the votes cast for mayor, there shall be a runoff election between the top two vote getters at the state/national general election for that year.

(h) **Election Districts.** There shall be two election districts known as A and B, as provided by Section 2.03 of this Charter.

(I) **Absentee Voting.** The Assembly shall provide by ordinance for absentee voting.

[Juneau Alternative] **ARTICLE VI — ELECTIONS**

Section 6.1. **REGULAR ELECTIONS.** A regular election shall be held annually on the first Tuesday in October,

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days published notice shall be given of a regular election. The notice shall state the purposes of the election.

Section 6.2. SPECIAL ELECTIONS. The assembly shall provide by ordinance for special elections. At least thirty days published notice shall be given of a special election. The notice shall state the purposes of the election.

Section 6.3. QUALIFICATION OF VOTERS. (a) To be eligible to vote at any municipal election, at the time of the election a person shall be:

(1) Qualified to vote in State elections;

(2) A resident of the municipality for at least thirty days immediately preceding the election;

(3) Registered to vote in state elections at a residence address within the municipality at least thirty days before the municipal election at which the person seeks to vote; and

(4) Not disqualified under Article V of the Alaska Constitution.

(b) The assembly shall provide by ordinance for absentee voting. (As amended by Serial No. 92-24 § 2, 1992).

Section 6.4. NOMINATIONS. Candidates for elective office shall be nominated by a petition signed by at least twenty-five qualified voters of the municipality. No nominating petition may be accepted unless accompanied by a signed acceptance of the nomination.

Section 6.5. ELECTION PROCEDURE. (a) All elections shall be nonpartisan. The assembly by ordinance shall provide for election procedures. (As amended by Serial No. 92-25 § 2, 1992).

Section 6.6. DETERMINATION OF ELECTION RESULTS. The candidate for each seat who receives the greatest number of votes shall be declared elected. In case of a tie, the election shall be determined by lot from among the candidates tying at a meeting of the assembly and under its direction.

Section 6.7. ELECTION DISTRICTS. There shall be one at-large election district comprised of the entire municipality. In addition there shall be two or more individual election districts within the municipality which shall be established to provide clarity of boundaries, compactness of area and substantially equal population to each seat assigned to the district. The assembly shall assign the number of seats to the areawide district and the individual districts as it determines appropriate; provided, not more than three seats may be assigned to the areawide district. (As amended by Serial No. 84-49 § 5, 1984).

[Haines Alternative] ARTICLE XVI ELECTIONS

Section 16.01 Regular Elections

A regular election shall be held annually on the first Tuesday in October, unless otherwise specified by ordinance.

Section 16.02 Special Elections

The assembly, by ordinance or resolution, may call special elections and submit questions to voters.

Section 16.03 Notice

Not more than six weeks and at least three weeks before the election, the clerk shall publish in full every ordinance, charter amendment, and other question which is to be submitted to the voters for approval at that election.

Section 16.04 Election Procedures

All borough elections shall be nonpartisan. The assembly by ordinance shall establish procedures for regular and special borough elections, including provisions for absentee voting.

If no candidate receives more than 40 percent of the votes, the seat will be filled by the winner of a runoff election between the two candidates receiving the most votes.

In case of a tie vote for borough office, the assembly shall determine the successful candidate by lot.

Section 16.05 Qualifications of Voters

To vote in any borough election, a person must be registered to vote in Alaska State

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which the person seeks to vote. The voter must reside in the district in which he seeks to vote.

Section 16.06 Recall

An elected official may be recalled by the voters in the manner provided by Alaska Statutes, which among other provisions states that the clerk may allow petitions only on the basis of misconduct in office, incompetence, or failure to perform prescribed duties. A petition to place the recall of the elected official before voters shall be signed by a number of qualified voters as required by law.

